

Michael D. Senneff, Esq. (SB 039388)  
 Bonnie A. Freeman, Esq. (SB 180502)  
 SENNEFF FREEMAN & BLUESTONE, LLP  
 50 Old Courthouse Square, Suite 401  
 P.O. Box 3729  
 Santa Rosa, CA 95402-3729  
 Telephone: 707-526-4250  
 Facsimile: 707-526-0347

Attorneys for Defendants County of Sonoma (also sued as Sonoma County Sheriff's Department and Sonoma County District Attorney's Office), Stephan Passalacqua, J. Michael Mullins, Greg Jacobs, Christine M. Cook, Russel L. Davidson, James Patrick Casey, and Detective Beau M. Martin

UNITED STATES DISTRICT COURT  
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

ZACHARIAH JUDSON RUTLEDGE,

NO. CV 07-04274 CW

Plaintiff,

COUNTY DEFENDANTS' REQUEST FOR  
 JUDICIAL NOTICE IN SUPPORT OF MOTION  
 TO DISMISS SECOND AMENDED  
 COMPLAINT  
 [FRCP Rule 12(b)(6)]

v.

COUNTY OF SONOMA, MICHAEL  
 POTTS, et al.,

Defendants.

Date: April 10, 2008  
 Time: 2:00 p.m.  
 Ctrm: 2

Pursuant to Fed. Rules of Evid. 201(b), (c) and (d), County defendants request the Court take judicial notice of the following:

1. The Criminal Docket for Superior Court of California, County of Sonoma, Case Number MCR 398506/SCR 32528— *People vs. Zachariah Judson Rutledge* (Complaint filed 5/8/02). A true and correct copy of the docket is attached hereto as **Exhibit A**.
2. The Criminal Docket for Superior Court of California, County of Sonoma, Case Number MCR 443363— *People vs. Zachariah Judson Rutledge* (Complaint filed 6/15/04). A true and correct copy of the docket is attached hereto as **Exhibit B**.
3. Order Denying Appeal from Denial of Motion to Dismiss of Zachariah Rutledge by Sonoma County Superior Court Appellate Panel, a true and correct copy of which is attached hereto as

**Exhibit C.**

4. Dockets from the California Appellate Courts, First Appellate District, in Case No. SCR 443363, MCR 443363 and SCR 32528, *Rutledge v. Superior Court*, a true and correct copy of which is attached hereto is **Exhibit D.**

DATED: February 29, 2008

SENNEFF FREEMAN & BLUESTONE, LLP

By: 

Michael D. Senneff

Bonnie A. Freeman

Attorneys for Defendants County of Sonoma,  
Stephan Passalacqua, J. Michael Mullins, Greg  
Jacobs, Christine M. Cook, Russel L. Davidson,  
James Patrick Casey, and Detective Beau M.  
Martin

## **EXHIBIT C**

**FILED**

JUN 22 2005

Clerk of the Superior Court of California  
County of Sonoma  
By *[Signature]*  
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA  
APPELLATE DIVISION

ZACHARIAH JUDSON RUTLEDGE,

Petitioner,

v.

SUPERIOR COURT OF THE STATE  
OF CALIFORNIA, COUNTY OF SONOMA,

Respondent,

PEOPLE OF THE STATE OF CALIFORNIA,

Real Party in Interest.

No. SCV-236477  
(No. MCR-443363)

**ORDER RE: PETITION FOR  
WRIT OF PROHIBITION/  
MANDATE, OR IN THE  
ALTERNATIVE, WRIT OF  
HABEAS CORPUS**

**STATEMENT OF FACTS AND PROCEDURAL HISTORY**

The court will limit its statement of facts and procedural history in this lengthy and somewhat convoluted proceeding to matters pertinent to the Petition.

On May 6, 2002, petitioner Zachariah Judson Rutledge ("Rutledge") was charged with two counts of murder.

On November 15, 2002, Rutledge was held to answer after a preliminary examination. At that hearing, State Criminalist, Michael Potts, gave detailed testimony regarding a paint transfer on a knife found at the crime scene which implicated Rutledge.

On January 27, 2004, Mr. Potts wrote a letter to the District Attorney recanting as to significant aspects of his testimony. The District Attorney disclosed this letter to Rutledge's

1 attorney, who on March 8, 2004, filed a non-statutory 995 Motion to Dismiss the  
2 Information based upon the disclosures made by Mr. Potts in his letter. On April 14, 2004,  
3 the trial court denied Rutledge's motion.

4 On May 17, 2004, Rutledge renewed his motion based upon an undated  
5 memorandum from Michael Potts to Deputy District Attorney James Casey which  
6 Rutledge's investigator had uncovered while conducting discovery in the files of another  
7 expert employed by the people. In this memorandum, Mr. Potts had advised Mr. Casey he  
8 had not conducted an "elemental" analysis on the paint on the knife and requested that  
9 Mr. Casey contact him regarding such an analysis. Mr. Potts also stated that he had only  
10 furnished one-third of his bench notes to Mr. Casey and asked Mr. Casey if he wanted the  
11 rest.

12 After reviewing this memorandum, Judge Raima Ballinger ordered a hearing which  
13 was conducted on May 19, 2004. At this hearing, Mr. Potts testified to the substance of his  
14 memorandum and, in addition, that Mr. Casey knew Mr. Potts believed further testing was  
15 needed, and that Mr. Casey advised Mr. Potts that he did not desire any additional bench  
16 notes at the time of their discussion. Mr. Casey testified at the hearing that he did not  
17 recall the memorandum from Mr. Potts, and that he did not recall Mr. Potts telling him he  
18 wanted to do more testing. At the conclusion of the hearing, Rutledge requested a new  
19 preliminary hearing based on the false and misleading testimony by Mr. Potts.

20 On June 14, 2004, Judge Ballinger granted Rutledge's non-statutory motion to  
21 dismiss, finding that the District Attorney had failed to disclose evidence favorable to the  
22 defendant, and that considering this evidence there was a reasonable probability that the  
23 magistrate would not have found probable cause. During the proceedings on Rutledge's  
24 motion, Judge Ballinger specifically declined to find that the District Attorney had  
25 intentionally withheld evidence.

26 On June 16, 2004, the people filed a new complaint against Rutledge based upon  
27 the same charges contained in the initial complaint. On November 8, 2004, Rutledge filed  
28 a motion to dismiss and a demurrer as to the new complaint. On February 9, 2005, Judge

1 Wong denied the motion and overruled the demurrer.

2 Rutledge filed a writ in the Court of Appeal seeking review of Judge Wong's order  
3 and dismissal of the new complaint. The Court of Appeal ruled that the petition should be  
4 heard by the Appellate Division of the Superior Court. Real Party in Interest, The People of  
5 the State of California, have responded by way of demurrer and answer to the petition.

6 II

7 ISSUES

8 A. Does dismissal of an information pursuant to a non-statutory 995 motion bar  
9 the refiling of a complaint?

10 B. Should refiling of the complaint be barred because of outrageous misconduct  
11 by the prosecution?

12 C. Did Judge Wong improperly interfere with an order previously issued by  
13 Judge Ballinger?

14 III

15 STANDARD OF REVIEW

16 In ruling on the people's demurrer, the court must assume as true all material facts  
17 properly plead, but may disregard conclusions of law and allegations contrary to facts of  
18 which judicial notice may be taken. The court may also consider any other judicially  
19 noticed facts as though plead in the petition. *Stanton v. Dumke* (1966) 64 Cal.2d 199, 201-  
20 202, including portions of the record referenced in the petition (*Faulker v. California Toll*  
21 *Bridge Authority* (1953) 40 Cal.2d 317, 329). If the petition does not state sufficient facts to  
22 justify the relief requested, the demurrer should be granted. *Stor Media Inc. v. Superior*  
23 *Court* (1999) 20 Cal.4th 449, 455.

24 IV

25 DISCUSSION

26 A. The People May Re-file a Complaint After Dismissal Pursuant to a Non-  
27 Statutory 995 Motion

28 Rutledge argues that the complaint must be dismissed because there is no statutory

1 authority allowing the people to re-file after dismissal is granted pursuant to a non-statutory  
2 995 motion. This argument ignores the fact that a non-statutory 995 motion has been  
3 created by case law, not statute, and the trial court has the discretion to fashion an  
4 appropriate remedy for the violation which resulted in the granting of the motion. *Stanton*  
5 *v. Superior Court* (1987) 193 Cal.App.3d 265, 272. Although Judge Ballinger did not  
6 specifically address refiling by the people, it is clear from the record that both counsel and  
7 Judge Ballinger recognized that her purpose in granting the motion was to allow Rutledge a  
8 new preliminary hearing untainted by the people's failure to disclose evidence. Thus, her  
9 order necessarily implies refiling by the people.

10 Rutledge argues that refiling of the complaint is not authorized by section 1387 of  
11 the Penal Code. Section 1387 by its own terms applies to statutory 995 motions. There is  
12 no indication that it applies to non-statutory motions such as that at issue here. The same  
13 is true for Penal Code section 999. Rutledge further argues that by allowing the people to  
14 appeal an order of the dismissal, Penal Code section 1238(a)(8) precludes the refiling of  
15 the complaint. No such limitation is contained in the language of section 1238, and none  
16 should be implied.

17 Judge Ballinger dismissed the original complaint because the prosecution failed to  
18 disclose exculpatory evidence in violation of *Brady v. Maryland* (1963) 373 U.S. 83. *Brady*  
19 and its progeny do not support the proposition that dismissal based on such conduct by the  
20 prosecution stands as a bar to future prosecution for the same offense. Although we have  
21 found no cases which address this issue in the context of a preliminary examination, the  
22 remedy afforded in cases in which there has been determined to be a *Brady* violation at  
23 trial, has been the granting of a new trial, not dismissal of the action in its entirety. *People*  
24 *v. Little* (1997) 59 Cal.App.4th 426, 435. Judge Ballinger's ruling is consistent with *Little*.

25 **B. Outrageous Conduct as a Bar to Refiling of the Complaint**

26 Rutledge argues that refiling of the complaint is barred because Judge Ballinger  
27 dismissed the first complaint based on the misconduct of the District Attorney, citing *Boulas*  
28 *v. Superior Court* (1986) 188 Cal.App.3d 422, 429, *Morrow v. Superior Court* (1994) 30



1 Cal.App 4<sup>th</sup> 1252, 1259, and *Barber v. Municipal Court* (1979) 24 Cal.3d 742. These cases  
2 stand for the proposition that when misconduct by the prosecution or other law  
3 enforcement officials may be so outrageous as to warrant dismissal of the entire action.  
4 To warrant this sanction, the misconduct must be flagrant and meet the shocks the  
5 conscious standard of *Rochin v. California* (1952) 242 U.S. 165, 172. *Boulas*, supra, at  
6 429. In *Boulas*, *Morrow* and *Barber*, the conduct found to be outrageous involved the  
7 intentional interference with confidential communications between an attorney and his  
8 client, intentional acts by police officers to induce defendant to fire his attorney, and  
9 infiltration of attorney-client meetings by an undercover police officer.

10 In *People v. Garcia* (1993) 17 Cal.App.4th 1169, the court found that the  
11 prosecution had withheld exculpatory evidence regarding a key expert witness who had  
12 testified at trial and reversed Garcia's conviction on that basis. The court recognized that  
13 the allegations of "gross and intentional misconduct" by the prosecution might warrant  
14 outright dismissal of the entire action, citing *Barber v. Municipal Court* (1979) 24 Cal.3d  
15 742. *Garcia*, supra, at 1180. However, since the referee who had been assigned to  
16 conduct a fact finding hearing as to the nature of the *Brady* violation had not found that the  
17 prosecutor had intentionally withheld information, the court dismissed the conviction and  
18 remanded the case to the trial court for further proceedings.

19 Like the referee in *Garcia*, Judge Ballinger made no determination that the  
20 prosecution intentionally withheld exculpatory evidence. As a reviewing court, we cannot  
21 substitute our evaluation of a witness's credibility for that of the trial judge. *People v.*  
22 *Barnes* (1986) 42 Cal.3d 284, 304.

23 The conduct in this case does not involve interference with the right to  
24 representation. There is no indication in the record that Judge Ballinger made any finding  
25 of intentional prosecutorial misconduct with the attorney-client relationship even after  
26 conducting an evidentiary hearing as to the nature of the *Brady* violation. Discrepancies  
27 between the testimony provided by Mr. Potts and Mr. Casey at the evidentiary hearing  
28 were resolved by the trial judge who was in the position to assess the demeanor and



credibility of the witnesses. The remedy afforded by Judge Ballinger gave Rutledge the relief to which he is entitled, a preliminary examination untainted by *Brady* error. (See *People v. Little*, supra.) Nothing in the record supports the allegation of outrageous conduct which might require dismissal of the entire action.

**C. Judge Wong Properly Reviewed Judge Ballinger's Order Dismissing the Complaint**

Rutledge argues that Judge Wong acted improperly by attempting to interpret the intent of Judge Ballinger, citing *Williams v. Superior Court* (1939) 14 Cal.2d 656, 662, and *In re Kowalski* (1971) 21 Cal.App.3d 67, 71. These cases stand for the proposition that one judge may not enjoin, restrain or otherwise interfere with the previous judicial act of another judge. This doctrine has no application to Judge Wong's decision. She was called upon to rule on Rutledge's motion to dismiss the second complaint and in issuing her order, she properly considered and relied upon Judge Ballinger's order which had dismissed the first complaint, but did not bar relief. She did not in any way attempt to countermand or change the effect of that order, or to substitute her judgment for that of Judge Ballinger's.

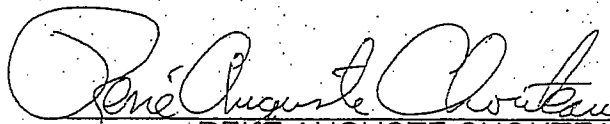
**V**

**DISPOSITION**

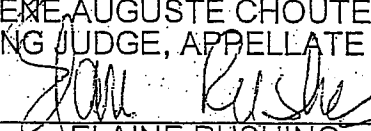
We sustain the people's demurrer without leave to amend and dismiss Rutledge's Petition for Prohibition/Mandate or in the Alternative for Writ Habeas Corpus.

DATED: June 8, 2005

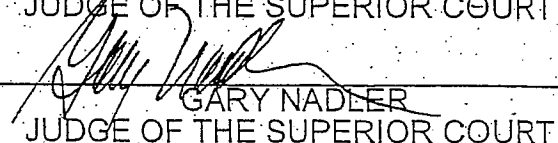
PER CURIAM:



RENE AUGUSTE CHOUTEAU  
PRESIDING JUDGE, APPELLATE DIVISION



ELAINE RUSHING  
JUDGE OF THE SUPERIOR COURT



GARY NADLER  
JUDGE OF THE SUPERIOR COURT

PROOF OF SERVICE

I, the undersigned, say:

I am an employee of the Superior Court of Sonoma County; my business address is 600 Administration Drive, Santa Rosa, California, 95403; I am not a party to the matter or action mentioned in the attached document; and I am over the age of 18 years.

I am readily familiar with the practice of the Superior Court of Sonoma County for collection and processing of correspondence for mailing with the United States Postal Service; and that on the date executed, I placed a copy of the attached document (Decision) in separate envelopes addressed respectively as set forth below and (except as otherwise indicated), placed them for collection and mailing at Santa Rosa, California, first class, postage fully prepaid, following ordinary business practices.

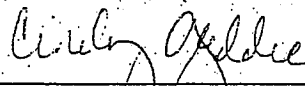
Christine Cook, Deputy District Attorney  
Sonoma County District Attorney's Office  
Hall of Justice, Room 212-J  
(via intra-office courier)

J. David Nick, Esq.  
Pier 5 Law Offices  
506 Broadway  
San Francisco, CA 94133

Hon. Cerena Wong  
Hall of Justice, Room 203-J  
(via intra-office courier)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Santa Rosa, California, on JUN 22 2005

  
Cindy Gaddie  
Judicial Assistant

## **EXHIBIT D**

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Last Name or Organization: rutledge  
First Name: zachariah

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Court of Appeal	Trial Court	Case Caption
Case Number	Case Number	
<a href="#">A114287</a>	SCR443363	Rutledge v. Superior Court County of Sonoma
<a href="#">A112868</a>	SCR32528	Rutledge v. he Superior Court, Sonoma County et al.
<a href="#">A110632</a>	MCR443363	Rutledge v. The Superior Court, Sonoma County et al.
<a href="#">A109622</a>	MCR443363	Rutledge v. Superior Court Sonoma et al.

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## Docket (Register of Actions)

**Rutledge v. Superior Court Sonoma et al.**  
**Division 1**

**Case Number A109622**

Date	Description	Notes
03/24/2005	Filed petition for writ of:	mandate/pro & stay;
03/24/2005	Exhibits lodged.	twelve volumes; (refiled in A110632 on 7-1-05)
03/24/2005	Filed declaration of:	counsel re: exhibit 19;
03/25/2005	Order denying petition filed.	The underlying criminal action is at the pre-preliminary hearing stage. Therefore, this petition should have been presented to the superior court appellate division instead of this Court. (Cite.) The petition for writ of mandate/prohibition or habeas corpus, and the request for immediate stay are denied, without prejudice to petitioner seeking relief in the appellate division of the Sonoma County Superior Court. (JJM,DES)
03/25/2005	Case complete.	
07/01/2005	Note:	copy of order filed in A110632 filed in this case
03/10/2006	Shipped to state retention center, box # / list #:	L220

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## Docket (Register of Actions)

**Rutledge v. The Superior Court, Sonoma County et al.**

**Division 1**

**Case Number A110632**

Date	Description	Notes
06/30/2005	Filed petition for writ of:	Prohibition/Mandate and request for stay;
06/30/2005	Exhibits lodged.	2-vols (2 vols. refiled in A112868 on 2/8/06 per court order)
06/30/2005	Request filed to:	for judicial notice.
07/01/2005	Order filed.	Petitioner's request that the Court take judicial notice of the exhibits lodged in case number A109622 (Rutledge v. Superior Court) ...is granted. Case number A109622 having been denied without prejudice, on the Court's own motion, Exhibit Volumes I-XII from that case are ordered refiled in this proceeding. On or before 4 pm, 7-19-05, RPI may serve and file opposition, if any, to the petition. The opposition may be in letter format with an original plus four copies. The date for filing any reply brief will be set after filing of the opposition....(Palma notice).
07/01/2005	Exhibits lodged.	12 exhibit volumes refiled from A109622 (12 vols. of exhibits refiled in A112868 on 2/8/06 per court order)
07/01/2005	Record in box.	
07/12/2005	Requested - extension of time.	not 30 days to 8/18/05 to file oppo
07/13/2005	Granted - extension of time.	to 8/18/05 to file oppo

08/11/2005	Opposition filed.	
08/11/2005	Letter sent to:	counsel; dated 8/11; reply to opposition, if any, due by 4pm on 8/25; (sent by SER)
08/25/2005	Reply filed to:	opposition; by petitioner Rutledge
08/31/2005	Order denying petition filed.	the petition for writ of mandate/prohibition & the request for stay are denied
08/31/2005	Case complete.	
09/09/2005	Petition for review in Supreme Court received.	from petitioner
09/09/2005	Record transmitted to Supreme Court.	
10/12/2005	Petition for review denied in Supreme Court.	
01/25/2006	Record returned from Supreme Court.	
03/10/2006	Shipped to state retention center, box # / list #:	L220

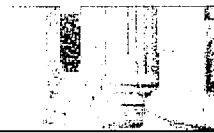
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**Rutledge v. he Superior Court, Sonoma County et al.**  
**Division 1**

**Case Number A112868**

Date	Description	Notes
02/06/2006	Filed petition for writ of:	Prohibition/Mandate;
02/06/2006	Exhibits lodged.	14 vols. (originally filed under A109622 & A110632)
02/06/2006	Request for judicial notice filed.	
02/08/2006	Order denying petition filed.	Petitioner's request that the Court take judicial notice of the exhibits filed in case A110632 is granted. Exhibit vols. I-XIV from that case are ordered refiled in this proceeding. Petitioner's request that the Court take judicial notice of the exhibits filed in case A109622 is denied, the exhibits vols. previously filed in that case were refiled in case number A110632 by prior order of this court and by this order will be refiled in this case. Petitioner is hereby place on notice that he is responsible for providing an adequate record in conjunction with a petition for extraordinary writ and that future motions for judicial notice unaccompanied by copies of the subject documents will be denied. The petition for writ of prohibition/mandate is denied. Order filed in A109622 & A110632.
02/08/2006	Record in box.	(1)
02/08/2006	Case complete.	
	Shipped to state retention	L239

10/30/2006	center, box # / list #:	
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**Rutledge v. Superior Court County of Sonoma  
Division 1**

**Case Number A114287**

Date	Description	Notes
06/28/2006	Filed petition for writ of:	Petition for Writ of Mandate and Request for Stay
06/28/2006	Exhibits lodged.	2 volumes exhibits
06/29/2006	Order filed.	On or before 10:00 a.m., Friday, June 30, 2006, petitioner shall personally serve a copy of the petition and exhibits on the Attorney General and on the Public Defender of the County of Sonoma and file proof thereof in this Court. The request for an immediate stay of the order granting the request of the County of Sonoma to appoint the Public Defender is deferred. On or before 10:00 a.m., Monday, July 10, 2006 the Attorney General and the County of Sonoma shall serve and file opposition, if any, to the petition. On or before 10:00 a.m., Monday, July 10, 2006, the Public Defender may serve and file a brief in support of or in opposition to the petition. The filing of any reply brief will be set upon further order of the Court. (Cal. Rules of Court, rule 56(g)(3) and (4).) All parties are hereby placed on notice that the Court may choose to act by issuing its peremptory writ in the first instance. (Palma v. U.S. Industrial Fasteners, Inc. (1984) 36 Cal.3d 717, 177-180.)
06/29/2006	Filed proof of service.	amended; of petition & exhibits upon AG (SF office) and Sonoma County Public Defender
07/07/2006	Opposition filed.	10am; from AG
07/10/2006	Opposition filed.	10am; from County of Sonoma
07/12/2006	Order filed.	Pending resolution of the petition on file herein, and

subject to further order of this Court, the May 19, 2006 order appointing the public defender to represent Zachariah Judson Rutledge in People v. Rutledge (Sonoma County Superior Court No. SCR 443363) is stayed... The July 3, 2006 declaration of John R. Abrahams and the July 7, 2006 declaration of Jeffrey L. Berk (included in the county's opposition to the petition) were not presented to respondent, superior court. This Court declines to consider them. (Peterson v. Superior Court (1995) 10 Cal.4th 1185, 1200, fn. 9.)... For the following reasons, the superior court erred when, on the motion of the County of Sonoma, it appointed the public defender to represent petitioner Rutledge in People v. Rutledge:... 1) The assignment of, and the determination of reasonable compensation for, court-appointed counsel are the responsibility of the superior court. (Pen. Code, " 987, 987.05, 987.3.)... 2) The superior court failed to make inquiry into and findings regarding defendant/petitioner's claim that the public defender has a conflict of interest in this case. (See People v. Cox (2003) 30 Cal.4th 916, 949-950 and cases cited therein.)... 3) The superior court failed to ascertain whether the public defender is available to try this no time waiver case, on the date set for trial. (Pen. Code, ' 987.05; Williams v. Superior Court (1996) 46 Cal.App.4th 320, 329-332.)...4) If the public defender has a conflict of interest, or is otherwise unable to try the case on the date set for trial, the superior court "[i]n the interest of justice . . . may depart from that portion of the procedure requiring appointment of a county-contracted attorney after making a finding of good cause and stating the reasons therefor on the record." (Pen. Code, ' 987.2, subd. (d).)... Therefore, let an alternative writ of mandate issue, commanding respondent, County of Sonoma Superior Court, to set aside its May 19, 2006 order appointing the public defender in People v. Rutledge, and to instead hold a hearing to consider the appointment of counsel for the defendant according to law and any relevant evidence. The county through its county counsel shall not participate in said hearing... The alternative writ is to be issued, served and filed on or before July 14, 2006, and shall be deemed served when certified copies are mailed by the Clerk of this Court to all parties and to respondent superior court.... Petitioner shall: (1) Confirm that respondent superior court has filed this order and the alternative writ. (2) On or before 4:00 p.m., July 31, 2006, inform this Court in writing whether the superior court has held a hearing in compliance with the alternative writ, and serve and file any new orders.... If respondent complies with the alternative writ, by vacating the appointment of the public defender and holding a hearing as directed, this Court will promptly discharge the writ, dissolve the stay, and summarily deny the petition as moot... Otherwise, a written return to the alternative writ shall be served and filed on or before 4:00 p.m., August 3, 2006, and the matter will be heard before Division One

		of this Court when it is ordered on calendar.
07/12/2006	Issued alternative writ.	Per order filed 7/12/06.
07/26/2006	Filed letter from:	petitioner's counsel dated 7/21; copy of 7/20/06 minute order and order attached.
07/27/2006	Petition summarily denied by order.	On July 20, 2006, the superior court complied with this Court's July 12, 2006 alternative writ of mandate. Therefore, said writ is discharged. The stay previously imposed is dissolved, and the petition on file herein is summarily denied as moot. This order is final as to this Court immediately.
07/27/2006	Case complete.	
01/15/2008	Shipped to state retention center, box # / list #:	L257

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## **EXHIBIT A**

SCR-32528 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA swilliam Page 1  
MCR-398506 CRIMINAL DOCKET Printed 9/28/2007 11:32

Docket of

DE 1 RUTLEDGE, ZACHARIAH JUDSON  
DOB 01/25/1976 DLN CA A9920344

Offense Date: 10/23/1998  
DA #: DAR-443724

Filed Charges

F PC 187(a) 2 Counts Held to Answer F PC 459 Held to Answer  
F PC 187(a) 2 Counts Dismissed F PC 459 Dismissed

Arresting Agency: SONOMA COUNTY SHERIFF'S DEPT  
Box Number: 113147

Agency #: SCY-98102411  
DA Location: LSTMG

05/08/2002 DE 1

DECLARATION IN SUPPORT OF WARRANT OF ARREST FILED  
WARRANT #5262370 SIGNED AND ISSUED IN THE AMOUNT OF \$1,000,000  
COMPLAINT FILED  
F PC 187(a) 2 Counts F PC 459  
ADDED TO CALENDAR BY JAIL - 05/10/2002 at 8:30am M13, WARRANT IN  
CUSTODYS

05/09/2002 DE 1

RECEIVED PEOPLE'S REQUEST RE: BAIL

05/10/2002 DE 1

ORDER ON MEDIA REQUEST TO PERMIT COVERAGE  
MEDIA REQUEST TO PHOTOGRAPH, RECORD OR BROADCAST FILED  
PEOPLE'S REQUEST RE: BAIL FILED  
PEOPLE FILE INVENTORY OF DOCUMENTS

05/10/2002 DE 1 Courtroom Minutes of Department M13

HON: Dean A. Beaupre DDA: JAMES PATRICK CASEY REP: MARIA HANNAN CLK: BW  
Defendant present in custody  
Counsel Steve Weiss, Public Defender, appearing  
Public Defender Appointed  
Defendant handed copy of complaint  
Discovery provided  
Warrant #5262370 Recalled  
NO BAIL  
People request no bail  
Defendant informed of Right to Counsel  
Case Referred to Probation Department for RPO  
Re: Release on Own Recognizance or Bail Reduction  
CONTINUED TO - 05/15/2002 at 8:30am M13, RPO/BAIL REDUCTION,  
ARRAIGNMENT, PLEA



SCR-32528 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

Page 2

05/15/2002 DE 1 Courtroom Minutes of Department M13

HON: C. WONG DDA: JAMES PATRICK CASEY REP: Sandra L. Carranza CLK: CM  
Defendant present in custody  
Counsel A. Thomas, Public Defender, appearing  
NO BAIL  
Bail report filed  
CONTINUED TO - 06/06/2002 at 8:30am S2, PLEA, TO SET

05/23/2002 DE 1

ORDER ON MEDIA REQUEST TO PERMIT COVERAGE FILED  
MEDIA REQUEST TO PHOTOGRAPH, RECORD, OR BROADCAST FILED

06/06/2002 DE 1 Courtroom Minutes of Department S2

HON: ELLIOT LEE DAUM DDA: JCP REP: B L Peterson CLK: VL  
Defendant present in custody  
Counsel A Thomas, Public Defender, appearing  
Defendant stipulates to due and proper arraignment  
Waives reading of complaint  
Defendant pleads Not Guilty to count I PC 187(a)  
Defendant pleads Not Guilty to count II PC 187(a)  
Defendant pleads Not Guilty to count III PC 459  
Defendant Waived Time for Preliminary Hearing, including 10 day  
rule  
Defendant Waived Time for Preliminary Hearing, including 60 day  
rule  
CONTINUED TO - 07/11/2002 at 8:30am S2, TO SET

07/11/2002 DE 1 Courtroom Minutes of Department S2

HON: ELLIOT LEE DAUM DDA: KATHLEEN A. KNOTTS REP: LYNN ANDERSON CLK: VL  
Defendant present in custody  
Counsel A Thomas, Public Defender, appearing  
Defendant Waived Time for Preliminary Hearing, including 10 day  
rule  
Defendant Waived Time for Preliminary Hearing, including 60 day  
rule  
Preliminary Examination set - 11/14/2002 at 9:30am S2, PRELIMINARY  
Time estimate-2-3 days

07/11/2002 DE 1

INVENTORY OF TRANSCRIPTIONS FILED WITH THE COURT

10/22/2002 DE 1

CONTINUED TO - 10/23/2002 at 8:30am S2, TO SET, COMPEL

SCR-32528 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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10/23/2002 DE 1 Courtroom Minutes of Department S2

HON: ELLIOT LEE DAUM DDA: JAMES PATRICK CASEY REP: LYNN ANDERSON CLK: VL  
Defendant present in custody  
Counsel A. Thomas, Public Defender, appearing  
Preliminary Examination set - 11/14/2002 at 9:30am S2, PRELIMINARY  
Time estimate for prelim: 2-3 days  
Motion to Compel Discovery Set - 10/30/2002 at 8:30am S2, MOTION,  
COMPEL, DISCOVERY

10/23/2002 DE 1

MOTION TO COMPEL DISCOVERY  
ORDER FOR TEMPORARY REMOVAL OF PRISONER DRE ALLEN BUETOW AND HIS  
PRODUCTION AS A WITNESS FILED  
DECLARATION IN SUPPORT OF ORDER FOR TEMPORARY REMOVAL OF PRISONER  
DRE ALLEN BUETOW AND HIS PRODUCTION AS A WITNESS FILED

10/28/2002 DE 1

PEOPLE'S REPLY TO DEFENDANT'S MOTION TO DISCOVERY

10/30/2002 DE 1 Courtroom Minutes of Department S2

HON: ELLIOT LEE DAUM DDA: JAMES PATRICK CASEY REP: LYNN ANDERSON CLK: VL  
Defendant present in custody  
Counsel A. Thomas, Public Defender, appearing  
Preliminary Examination set - 11/14/2002 at 9:30am S2, PRELIMINARY  
time estimate 2-3 days  
Motion for Discovery is discussed and ruled upon the various matters  
as placed on the record in open Court.

11/13/2002 DE 1

WITNESS LISTS FILED

11/14/2002 DE 1 Courtroom Minutes of Department S2

HON: ELLIOT LEE DAUM DDA: JAMES PATRICK CASEY REP: MARIA HANNAN CLK: BW  
Judge has file  
Defendant present in custody  
Counsel A. Thomas, Public Defender, appearing  
Defendant agrees to waive right to have continual prelim  
Preliminary Hearing called at 10:30 a.m.  
Cause heard at 10:30 a.m.  
Defense calls for declaration and exclusion of People's witnesses  
People call for declaration and exclusion of Defense witnesses  
Defense advises Court Tom Johnson will be present at Defense counsel  
table as Defense Investigator.  
Court excuses all witnesses from open courtroom.  
People call Sergeant Russell Davidson, Sonoma County S.O., sworn

SCR-32528 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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11/14/2002 DE 1 Courtroom Minutes of Department S2 (continued)

and testified at 10:35 a.m.

People's exhibit 1, marked for identification: large black and white map diagram

People's exhibit 2, marked for identification: very large board with 10 color photos (DA label A)

Stipulation stated on the record

People's exhibit 3, marked for identification: very large board with color photos (DA label E)

People's exhibit 4, marked for identification: very large board with color photos (DA label B)

People's exhibit 5, marked for identification: very large board with color photos (DA label F)

People's exhibit 6, marked for identification: very large board with color photos (DA label C)

People's exhibit 7, marked for identification: medium size board with 4 color photos (DA label C-A)

People's exhibit 8, marked for identification: very large board with color photos (DA label F-A)

Cross examination by defense at 11:21 a.m.

Redirect 11:33 a.m.

Witness identifies Defendant(s).

Recross examination by Mr. Thomas at 11:39 a.m.

At 11:56 a.m. Court declares noon recess.

At 1:42 p.m. Court reconvenes with all parties and defendant present. Court reporter change to Susan Standish.

Witness Sgt. Russell Davidson resumes witness stand, having been previously sworn and still under oath.

People state on the record several stipulations for the purposes of this prelim hearing.

Court is adjourned at 2:10 p.m.

People's exhibit 9, marked for identification: white long bow with brown leather sheath and knife

At 2:05 p.m. Court interrupts proceedings to take a plea on another matter.

At 2:10 p.m. Court resumes this matter. All parties present.

Recross examination at 2:10 p.m. by Mr. Thomas.

Witness excused at 2:30 p.m.

People call Charles Augustine Marcum, Jr. sworn and testifies at 2:31 p.m.

Cross examination at 2:36 p.m. by Mr. Thomas.

Redirect at 3:02 p.m.

Witness excused at 3:03 p.m.

Recess: 3:03 p.m.

Reconvene: 3:20 p.m.; All Parties present

People call Deborah Ann Becker, sworn and testified at 3:21 p.m.

Witness identifies Defendant(s).

Cross examination at 3:31 p.m.

SCR-32528 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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11/14/2002 DE 1 Courtroom Minutes of Department S2 (continued)

Witness steps down at 3:53 p.m.  
People call Otto Meyer, sworn and testified at 3:54 p.m.  
Cross examination by defense at 4:03 p.m.  
Witness steps down at 4:06 p.m.  
People call William McMahon, sworn and testified at 4:06 p.m.  
Witness identifies Defendant(s).  
People's exhibit 10, marked for identification: white long box with rifle inside  
People's exhibit 11, marked for identification: very large board with color photos (DA label D)  
Cross examination by defense at 4:18 p.m.  
Redirect at 4:23 p.m.  
Witness steps down  
People call Greg Adair, sworn and testified at 4:23 p.m.  
Witness identifies Defendant(s).  
Cross examination at 4:30 p.m. by defense  
Witness steps down  
People call Spencer Tomosvary, sworn and testified at 4:37 p.m.  
Witness identifies Defendant(s).  
Cross examination at 4:42 p.m.  
Witness steps down  
Defendant waives right for continual prelim hearing for 11/15/2002.  
Preliminary Examination set - 11/15/2002 at 10:00am S2, PRELIMINARY  
At 4:46 p.m. court stands adjourned.

11/15/2002 DE 1 Courtroom Minutes of Department S2

HON: ELLIOT LEE DAUM DDA: JAMES PATRICK CASEY REP: S STANDISH CLK: VL  
Defendant present in custody  
Counsel A. Thomas, Public Defender, appearing  
Preliminary Examination held  
At 1:33pm, Court reconvenes. Counsel present. Defendant present.  
Cross examination James L. Lewis, Jr., heretofore sworn, resumes the stand and further testifies.  
Witness steps down  
Sergeant Russell Davidson, heretofore sworn, resumes the stand and further testifies.  
Witness steps down  
People call Michael L. Potts, sworn and testified.  
Stipulation announced.  
Cross examination  
Witness steps down  
People call Brad Burke, sworn and testified.  
Witness steps down  
People call John Douglas Yount, sworn and testified.  
Stipulation announced.  
Courtroom Clerk change to Brenda Wesson.

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11/15/2002 DE 1 Courtroom Minutes of Department S2 (continued)

Cross examination

Recess: 2:55pm

Reconvene: 3:08pm

People call Dre Allen Buetow, sworn and testifies at 3:09pm

Witness identifies Defendant(s).

Cross examination

Witness steps down

People recall Sgt. Russell Davidson at 3:15pm.

Witness steps down

People's exhibit(s) 1-15 moved into evidence.

No objections by defense.

People rest

Defense argues

Submitted

Defendant Held to Answer to count I PC 187(a) as charged

Enhancement to count I PC 12022.53(d) held to answer

Enhancement to count I PC 190.2(a)(3) held to answer

Enhancement to count I PC 190.2(a)(15) held to answer

Enhancement to count I PC 12022.5(b)(2) held to answer

Defendant Held to Answer to count II PC 187(a) as charged

Enhancement to count II PC 12022.53(d) held to answer

Enhancement to count II PC 190.2(a)(3) held to answer

Enhancement to count II PC 190.2(a)(15) held to answer

Enhancement to count II PC 12022.5(b)(2) held to answer

Defendant Held to Answer to count III PC 459 as charged

Enhancement to count III PC 12022.5(b)(2) held to answer

Information to be filed in Superior Court by - 11/26/2002 at 8:30am

S2, INFORMATION TO BE FILED

Bail status remains the same; \$0 - NO BAIL

All People's Exhibits withdrawn and remain with DA for safekeeping.

Transcript by: 11/24/2002

Reporter: Susan Standish

11/18/2002 DE 1

PERTINENT PAPERS DELIVERED TO COUNTY CLERK; RECEIPT FILED #SCR-32528

11/21/2002 DE 1

CRIMINAL HEARING - 11/26/2002 at 8:30am S2, INFORMATION TO BE FILED

BAIL INVESTIGATION RPT

TRANSCRIPT OF PRELIMINARY EXAMINATION FILED NOV. 15, 2002

TRANSCRIPT OF PRELIMINARY EXAMINATION FILED NOV. 14, 2002

11/25/2002 DE 1

TRANSCRIPT OF PRELIMINARY EXAMINATION FILED

SCR-32528 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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11/26/2002 DE 1 Courtroom Minutes of Department S2

HON: ELLIOT LEE DAUM DDA: JAMES PATRICK CASEY REP: R KOOP CLK: VL  
Defendant present in custody  
Counsel Ande Thomas, Public Defender, appearing  
INFORMATION FILED  
F PC 187(a) 2 Counts F PC 459  
Defendant stipulates to due and proper arraignment  
Defendant waives reading of information  
Defendant pleads Not Guilty to count I PC 187(a)  
Defendant pleads Not Guilty to count II PC 187(a)  
Defendant pleads Not Guilty to count III PC 459  
Enhancements/Allegations denied  
Fingerprint form filed  
Defendant waives time to 1-7-2003 plus 75 days  
CONTINUED TO - 01/07/2003 at 8:30am S2, TO SET

12/16/2002 DE 1  
ORDER

01/07/2003 DE 1 Courtroom Minutes of Department S2

HON: R.DALE DDA: JAMES PATRICK CASEY REP: B L Peterson CLK: LA  
Defendant present in custody  
Counsel B Kinnison obo A Thomas, Public Defender, appearing  
Defendant waives time to 1-28-2003 plus 75 days  
CONTINUED TO - 01/28/2003 at 8:30am S2, TO SET

01/28/2003 DE 1 Courtroom Minutes of Department S2

HON: R.BALLINGER DDA: Larry J. Scoufos REP: C A Martinez CLK: LA  
Defendant present in custody  
Counsel A. Thomas, Public Defender, appearing  
Public Defender Relieved  
Counsel J David Nick appearing  
Counsel appearing generally  
Public Defender Fee Incurred filed.  
Defendant waives time to 2/18/2003 plus 60 days  
CONTINUED TO - 02/18/2003 at 8:30am S2, TO SET

02/18/2003 DE 1 Courtroom Minutes of Department S2

HON: R.BALLINGER DDA: Greg J. Jacobs REP: C A Martinez CLK: LA  
Defendant present in custody  
Counsel J David Nick appearing  
Defendant waives time to 4-2-2003 plus 60 days  
CONTINUED TO - 04/02/2003 at 8:30am S2, TO SET

SCR-32528 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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04/02/2003 DE 1 Courtroom Minutes of Department S2

HON: R.BALLINGER DDA: Greg J. Jacobs REP: C A Martinez CLK: LA  
No file  
Defendant present in custody  
Counsel J David Nick appearing  
People's response due 05/14/2003  
Defendant waives time to 05/29/2003 plus 60 days  
995 PC Motion Set - 05/29/2003 at 2:30pm S2, 995PC TO DISMISS  
Time estimate for motion: 2 hours

04/25/2003 DE 1 Courtroom Minutes of Department S2

HON: R.BALLINGER REP: C A Martinez CLK: LA  
no file  
In camera hearing held  
Confidential motion held and ruled upon  
995 Motion Set - 05/29/2003 at 2:30pm S2, 995PC TO DISMISS  
Confidential motion granted  
Court reporter ordered transcript of in camera hearing sealed.

05/14/2003 DE 1

PEOPLE'S OPPOSITIONT O DEFENDANT'S MOTION TO DISMISS INFORMATION  
PURSUANT TO PENAL CODE 995 AND CALIFORNIA COMMON LAW FILED  
PROOF OF SERVICE BY MAIL

05/27/2003 DE 1

Defendant's Reply to Opposition to Motion to Dismiss Filed

05/29/2003 DE 1 Courtroom Minutes of Department S2

HON: R.BALLINGER DDA: Greg J. Jacobs REP: C A Martinez CLK: LA  
Judge has file  
Defendant present in custody  
Defense Counsel J David Nick appearing  
At 3:05 pm motion held  
Counsel Nick presents Motion to Dismiss  
Defendant waives time to 06/19/2003 plus 60 days  
Further 995 Motion Set - 06/19/2003 at 2:30pm S2, 995PC TO DISMISS

06/19/2003 DE 1 Courtroom Minutes of Department S2

HON: R.BALLINGER DDA: Greg J. Jacobs REP: C A Martinez CLK: MB  
DA: C Cook  
Defendant present in custody  
Defense Counsel J David Nick appearing  
Defendant waives time to 07/17/2003 plus 60 days  
Exhibits withdrawn



SCR-32528 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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06/19/2003 DE 1 Courtroom Minutes of Department S2 (continued)

Discovery motion to be filed by 07/07/2003

995 PC Motion Held

995 PC Motion Denied

Discovery Motion Set - 07/17/2003 at 2:30pm S2, DISCOVERY MOTION

07/07/2003 DE 1

NOTICE OF MOTION AND MOTION TO COMPEL DISCOVERY FILED

07/17/2003 DE 1 Courtroom Minutes of Department S2

HON: R.BALLINGER DDA: Christine M Cook REP: E POPOVICH CLK: LA  
Defendant present in custody

Defense Counsel J David Nick appearing

Stipulation between counsel Nick and Assistant DA G Jacobs re:  
transfer of custody of case evidence filed.

Defendant waives time to 07/31/2003 plus 60 days

Hearing Held

Time estimate 8-12 weeks

CONTINUED TO - 07/31/2003 at 2:30pm S2, FURTHER PROCEEDINGS

07/31/2003 DE 1 Courtroom Minutes of Department S2

HON: R.BALLINGER DDA: Christine M Cook REP: R KOOP CLK: LA  
No File

Defendant present in custody

Defense Counsel J. Nick not present M. Linscheid specially  
appearing

Amended stip between Attorney Nick and Ada Greg Jacobs re: Transfer  
of custody case evid.

Defendant waives time to 01-19-2004 plus 60 days

Pretrial Confirmation Set - 01/09/2004 at 8:30am S2, PRETRIAL

CONFIRMATION

CONTINUED TO - 09/25/2003 at 2:30pm S2, COMPLIANCE

08/13/2003 DE 1

CONTINUED TO - 08/14/2003 at 2:30pm S2, FURTHER PROCEEDINGS, AT  
JUDGE'S REQUEST

08/14/2003 DE 1 Courtroom Minutes of Department S2

HON: R.BALLINGER DDA: TROYE K. SHAFFER REP: C A Martinez CLK: LA  
Defendant present in custody

Defense Counsel J David Nick not present, E Vizzi appearing

Mr. Jackson present and addresses the Court

Jury Trial Set - 01/20/2004 at 9:30am S2, JURY TRIAL

SCR-32528 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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08/14/2003 DE 1 Courtroom Minutes of Department S2 (continued)

Pretrial Confirmation Set - 01/09/2004 at 8:30am S2, PRETRIAL

CONFIRMATION

CONTINUED TO - 08/21/2003 at 2:30pm S2, FURTHER PROCEEDINGS

08/21/2003 DE 1 Courtroom Minutes of Department S2

HON: R.BALLINGER DDA: Christine M Cook REP: C A Martinez CLK: LA  
Defendant present in custody

Defense Counsel J. Nick not present, Counsel M Linscheid, specially  
CONTINUED TO - 09/25/2003 at 2:30pm S2, COMPLIANCE

Jury Trial Set - 01/20/2004 at 9:30am S2, JURY TRIAL

Pretrial Confirmation Set - 01/09/2004 at 8:30am S2, PRETRIAL

CONFIRMATION

09/25/2003 DE 1 Courtroom Minutes of Department S2

HON: R.BALLINGER DDA: Christine M Cook REP: C A Martinez CLK: LA  
Judge has file

Defendant present in custody

Defense Counsel J David Nick appearing

Jury Trial Set - 01/20/2004 at 9:30am S2, JURY TRIAL

Pretrial Confirmation Set - 01/09/2004 at 8:30am S2, PRETRIAL

CONFIRMATION

11/13/2003 DE 1

STIPULATION BETW ATTY J. DAVID NICK & ASST D.A. GREGORY JAC

OBS RE: TRANSFER OF CUSTODY OF CASE EVIDENCE FILED

11/20/2003 DE 1

NOTICE OF MOTION AND MOTION TO DISMISS INFORMATION FOR FAILURE OF  
THE PROSECUTION TO DIVULGE MATERIAL EXCULPATORY EVIDENCE PRIOR  
TO THE PRELIMINARY EXAMINATION FILED

CONTINUED TO - 12/11/2003 at 2:30pm S2, MOTION, CONTINUE

TABLE OF EXHIBITS IN SUPPORT OF DEFENDANTS MOTION TO DISMISS  
INFORMATION FOR FAILURE OF THE PROSECUTION TO DIVULGE MATERIAL  
EXCULPATORY EVIDENCE PRIOR TO THE PRELIMINARY EXAMINATION FILED  
DECLARATION OF MICHAEL LINSCHIED IN SUPPORT OF DEFENDANTS MOTION TO  
DISMISS INFORMATION FOR FAILURE OF THE PROSECUTION TO DIVULGE  
MATERIAL EXCULPATORY EVIDENCE PRIOR TO THE PRELIMINARY EXAMINATION  
FILED

11/24/2003 DE 1

NOTICE OF MOTION AND MOTION COMPEL DISCOVERY FILED

SCR-32528 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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12/05/2003 DE 1

PEOPLES OPPOSITION TO DEFENDANTS MOTION TO DISMISS INFORMATION FOR  
FAILURE TO DIVULGE EXCULPATORY EVIDENCE PRIOR TO THE PRELIMINARY  
EXAMINATION FILED  
PEOPLES OPPOSITION TO DEFENDANTS MOTION TO COMPEL DISCOVERY FILED  
REQUEST FOR INFORMAL DISCOVERY FILED

12/09/2003 DE 1

Defendant's Reply to People's Opposition to Def's Motion to  
Dismiss Information Filed

12/11/2003 DE 1

Memo of Ps and As in Support of Certificate of Materiality  
for Transfer of Federal Inmate Brady Lee Gatewood Filed

12/11/2003 DE 1 Courtroom Minutes of Department S2

HON: R.BALLINGER DDA: Greg J. Jacobs REP: C A Martinez CLK: KLK  
No file; Judge has file  
Defendant present in custody  
Defense Counsel J David Nick appearing  
Case heard 2:40 p.m.  
Motion to compel discovery addressed  
Defense files supplemental memorandum of points and authorities in  
support of defendant's motion to dismiss for failure of prosecutor  
to divulge material exculpatory evidence prior to preliminary  
hearing  
Defense argues  
Recess: 3:36 p.m.  
Reconvene: 3:55 p.m.; All Parties present  
People respond  
Recess: 4:04 p.m.  
Reconvene: 4:10 p.m.; All Parties present  
Defense files memorandum of points and authorities in support of  
materiality for transfer of federal inmate Brady Gatewood from FCI  
Sheridan to Sonoma County for testifying at trial  
CONTINUED TO - 12/22/2003 at 11:00am S2, RULING, DISCOVERY  
COMPLIANCE

12/11/2003 DE 1

Defendant's Supplemental Ps and As in Support of Motion to  
Dismiss Information Filed

12/19/2003 DE 1

DROPPED FROM CALENDAR - 12/22/2003 at 11:00am S2

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12/24/2003 DE 1

Certificate of Materiality for The Transfer of Federal Inmate Brady Lee Gatewood Filed

01/06/2004 DE 1

NOTICE OF PEOPLES MOTION TO CONTINUE FILED  
POINTS AND AUTHORITIES IN SUPPORT OF PEOPLES MOTION TO CONTINUE  
FILED  
DECLARATION IN SUPPORT OF PEOPLES MOTION TO CONTINUE FILED

01/07/2004 DE 1

SUPPLEMENTAL DECLARATION IN SUPPORT OF PEOPLES MOTION TO CONTINUE  
FILED

01/09/2004 DE 1 Courtroom Minutes of Department S2

HON: R.BALLINGER DDA: Greg J. Jacobs REP: C A Martinez CLK: LA  
DA: C. Cook  
Judge has the file  
Defendant present in custody  
Defense Counsel J David Nick appearing  
Reported in chambers side bar hed, defendant waives his app for said  
hearing  
Court finds good cause for cont.  
Jury Trial Set - 02/26/2004 at 9:30am S2, JURY TRIAL  
Pretrial Confirmation Set - 02/13/2004 at 8:30am S2, PRETRIAL  
CONFIRMATION  
Vacated - 01/20/2004 at 9:30am S2  
995 PC Motion Granted  
995 PC Motion Denied.  
1050 PC Motion Granted  
People's 1050 PC Motion Denied

02/10/2004 DE 1

CONTINUED TO - 02/23/2004 at 8:30am 2, TO SET, TO QUASH, AT  
ATTORNEY'S REQUEST

02/13/2004 DE 1 Courtroom Minutes of Department 2

HON: R.DALE DDA: Greg J. Jacobs REP: A MERTLE CLK: KLK  
Defendant present in custody  
Defense Counsel J David Nick appearing  
Court orders Counsel not to take other trials.  
Pretrial Conference Held  
Readiness Conference Set - 02/20/2004 at 10:00am 2, READINESS  
CONFERENCE  
DROPPED FROM CALENDAR - 02/23/2004 at 8:30am 2

SCR-32528 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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02/20/2004 DE 1 Courtroom Minutes of Department 2

HON: R.BALLINGER DDA: Christine M Cook REP: C J Hamilton CLK: LA  
Judge has file  
DA: /G. Jacobs  
Court orders DA not accept any other trials pending this matter  
Defendant present in custody  
Defense Counsel J David Nick appearing  
Def. waives uninterrupted jury, specifically 3-15-2004 - 3-19-2004  
Defendant waives time to 4-1-2004  
Jury Trial Set - 03/08/2004 at 9:30am 2, JURY TRIAL  
Readiness Conference Held  
Vacated - 02/26/2004 at 9:30am 2

02/23/2004 DE 1

CONTINUED TO - 02/23/2004 at 8:30am 2, FURTHER PROCEEDINGS

02/23/2004 DE 1 Courtroom Minutes of Department 2

HON: R.BALLINGER DDA: TROYE K. SHAFFER REP: C J Hamilton CLK: LA  
Defendant present in custody  
Defense Counsel J. Nick appearing  
P. Gallagher present, addresses the Court  
matter DROPPED from calendar  
CONTINUED TO - 03/08/2004 at 9:30am 2, JURY TRIAL

03/02/2004 DE 1

Media Request and Order Thereon Filed

03/08/2004 DE 1 Courtroom Minutes of Department 2

HON: R.BALLINGER DDA: Christine M Cook REP: C A Martinez CLK: PJS  
Jury Trial 1st DAY  
DA also Greg Jacobs  
Defendant present in custody  
Defense Counsel J. David Nick appearing  
People's Proposed Witness List filed  
People's Trial Brief filed  
The following motions are filed by Mr. Nick:  
Notice of Motion & Motion In Limine to Exclude Scientific Evidence  
To Wit: Paint Identification & Random Match Probability Evidence  
& Demand for "Kelly-Frye" Hearing  
Notice of Motion & Motion To Dismiss Information In Light Of  
Recently Discovered Misrepresentations Made By Senior Criminalist  
Michael Potts Of The California Department of Justice At The  
Preliminary Examination  
Defendant's Motion In Limine To Dismiss Because Of Denial Of Right  
To Due Process Under The Constitutions Of The United States &

SCR-32528 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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03/08/2004 DE 1 Courtroom Minutes of Department 2 (continued)

California Based Upon Preaccusation Delay

Defendant's Motion In Limine To Exclude Any Mention Of Any Alleged Fight Between Defendant And Victim Jason Blore As A Motive For Either Of The Murders In The Present Case

Defendant's Motion In Limine To Exclude Admission Of A Symbol That Was Carved Above A Door In A Cabin Owned By Defendant's Parents Pursuant To Evidence Code 403 & 352

Defendant's Motion In Limine To Exclude Statements Made By Defendant At Santa Rosa Junior College, In The Police Vehicle, Or At The Sonoma County Sheriff's Department After Having Been Subjected To A Custodial Interrogation & After Having Invoked His Right To Counsel

Defendant's Motion In Limine To Exclude Any Reference To A Polygraph Examination

Defendant's Motion In Limine To Exclude Any Reference To A March 29, 2002, Annoying Phone Call Placed By Defendant To Occidental Leather Pursuant To Evidence Code 1101(b) & Evidence Code 352

Defendant's Motion In Limine To Exclude Circumstances Surrounding An April 3, 2002 Incident Pursuant To Evidence Code 1101(b)

Defendant's Motion In Limine To Exclude Admission Of Defendant's Prior Bad Acts Pursuant To Evidence Code 1101(b)

Defendant's Motion In Limine To Instruct The Prosecution To Advise All Witnesses Of The Orders Of The Court Following In Limine Motions

Defendant's Motion In Limine To Exclude Statements Made By Defendant To Any In-Custody Informant As Such Statements Were Obtained From Defendant In Violation Of His Sixth Amendment Right To Counsel

Defendant's Motion In Limine For An Order Sealing Defendant's Mental Health Records, And For An Order Excluding The Prosecution From Arguing Or Eliciting Testimony Concerning Defendant's Mental Health As Set Forth In His Mental Health Records

Defendant's Motion In Limine To Exclude The Knife Found At The Crime Scene

Defendant's Motion In Limine To Exclude The Prosecution From Referencing The Weapon As An "Assault" Rifle

Defendant's Motion In Limine To Exclude Any Writings By Defendant Or Any Reference Thereto

Defendant's Motion In Limine To Exclude Any Mention Of Defendant's Homosexuality, The Homosexuality Of The Victims, Or Defendant's Alleged Hatred Of Homosexuals As A Motive For Either Of The Murders In The Present Case

Defendant's Motion In Limine To Exclude Conviction & Circumstances Surrounding Defendant's Prior Arrest For Possession Of Sawed Off Shotgun Pursuant To Evidence Code 1101(b)

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03/08/2004 DE 1 Courtroom Minutes of Department 2 (continued)  
Defendant's Motion In Limine to Exclude Photographs & Videotapes Of  
Victims Pursuant To Penal Code 352  
Jury Trial Set - 03/10/2004 at 1:30pm 2, JURY TRIAL, CONTINUE

03/10/2004 DE 1  
DROPPED FROM CALENDAR PER JUDGE BALLINGER - 03/10/2004 at 1:30pm 2  
CONTINUED TO - 03/12/2004 at 1:30pm 2, MOTION IN LIMINE, AT JUDGE'S  
REQUEST

03/12/2004 DE 1 Courtroom Minutes of Department 2

HON: R.BALLINGER DDA: Christine M Cook REP: C A Martinez CLK: LA  
JURY TRIAL 2nd DAY  
District Attoreny Greg Jacobs also present  
Defendant present in custody  
Defense Counsel J. Nick appearing  
Court orders mental health records not be released to anyone pending  
further Court order  
People's exhibit 1, marked for identification: copy of release  
signed by defendant  
People's exhibit 2, marked for identification: copy of letter  
Specialist P. Dietz MD is not to discuss records with anyone  
CONTINUED TO - 03/26/2004 at 1:30pm 2, MOTION

03/18/2004 DE 1  
APP & AFFIDAVIT FOR WRIT OF HABEAS CORPUS AD TESTIFICANDUM RE  
WITNESS IN FEDERAL CUSTODY: BRADY GATEWOOD FILE  
WRIT OF HABEAS CORPUS AD TESTIFICANDUM RE WITNESS IN FEDERAL  
CUSTODY: BRADY GATEWOOD FILED  
CERTIFICATE OF COURT CLERK FILED

03/23/2004 DE 1  
PEOPLES RESPONSE TO DEFENDANTS NOTICE OF MOTION AND MOTION IN  
LIMINE TO EXCLUDE SCIENTIFIC EVIDENCE TO WIT: PAINT IDENTIFICATION  
AND  
RANDOM MATCH PROBABILITY EVIDENCE AND DEMAND FOR "KELLY" HEARING  
FILED  
People's Opposition to Defendant's Motion in Limine to Excl  
ude Defendant's Statements Made to Police Filed  
People's Supplemental Attachment to Previously Filed Trial  
Brief: People's Offer of Proof By Park Dietz, MD, PhD Filed  
People's Opposition to Defendant's Motion in Limine to  
Exclude Symbol in Defendant's Home Filed  
People's Opposition to Defendant's Motion to Dismiss Info.  
for Failure to Divulge Exculpatory Evidence Filed  
People's Partial Non-Opposition to Defendant's Motion  
Re: Mental Health Records Filed



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03/23/2004 DE 1 (continued)

People's Opposition to Defendant's Motion in Limine To  
Dismiss for Preaccusation Delay Filed  
People's Opposition to Defendant's Motion in Limine to  
Exclude the Knife Found at the Crime Scene Filed  
People's Opposition to Defendant's Motion in Limine to Excl  
ude any Mention of Defendant's Homosexuality, etc. Filed  
People's Opposition to Defendant's Motion in Limine to  
Exclude Photographs and Videotapes of Victims Filed  
People's Response to Defendant's Motion in Limine to Exclud  
e Admission of Defendant's Prior Bad Acts Filed  
People's Opposition to Defendant's Motion in Limine to Excl  
ude Mention of Alleged Fight Bet. Def and Jason Blore Filed

03/25/2004 DE 1

DROPPED FROM CALENDAR - 03/26/2004 at 1:30pm 2  
CONTINUED TO - 04/02/2004 at 10:00am 2, MOTION  
SUBPOENAED RECDS FR SO CO MADF REC'D IN CABINET

03/29/2004 DE 1

Defendant's Resp to People's Trial Brief re: Objec to Admis  
of Prior Shotgun Possession Conviction etc. Filed  
Defendant's Response to People's Trial Brief re: Defense  
Opposition to Use of Psychiatric Profile Evidence etc Filed

04/02/2004 DE 1

Defense Response to DA's Trial Brief re: Defendant's Opp to  
Intro of Evidence to Prove Motive of Defendant FILED

04/02/2004 DE 1 Courtroom Minutes of Department 2

HON: R.BALLINGER DDA: Christine M Cook REP: C A Martinez CLK: LA  
JURY TRIAL 3rd DAY  
District Attorney Greg Jacobs also present  
Defendant present in custody  
Defense Counsel J. Nick appearing  
Motion to Dismiss for Pre Arrest Delay is argued  
Defendant waives his right to be present at crime scene  
Defendant waives his right to Court Reporter at crime scene  
Court's prior order re: mental health records remains in effect  
CONTINUED TO - 04/06/2004 at 10:00am 2, JURY TRIAL  
Reconvene: At 4:37 p.m. Court is adjourned; All Parties present  
CONTINUED TO - 04/05/2004 at 10:00am 2, JURY TRIAL

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04/05/2004 DE 1 Courtroom Minutes of Department 2

HON: R.BALLINGER DDA: Christine M Cook REP: C A Martinez CLK: LA  
JURY TRIAL 4th DAY

District Attorney Greg Jacobs also present

Defendant present in custody

Defense Counsel J. David Nick appearing

Deputy District Attorney Christine Cook also appearing for People

402 hearing held RE: Preaccusation Delay

Further Points on Preaccusation Delay filed

People call Detective Russell L. Davidson, sworn and testified.

Witness steps down

402 Hearing convened re; Mental Health Records

Defendant waives any confidentiality issues relating to Mental  
Health reports

Defense calls Deputy Public Defender Ande Thomas, sworn and  
testified

Defendant waives any irregularities re: Court exhibit 1a and 2a

People's exhibit #1A, marked for identification: COPY Of

Dedendant's waiver re: mental health records

People's exhibit 2a, marked for identification: copy of letter  
from Public Defender to District Attorney

Witness steps down

Witness ordered to appear on 4/7/04 at 10:00 Dept. 2 if his files  
indicate any new information

Recess: 11:36 a.m. for regularly scheduled noon break

Reconvene: 1:44 p.m.; All Parties present

Court reporter Susan Standish replaces Court Reporter C. Martinez

Detective Russell Davidson retakes the stand and further testifies

Court's exhibit(s) 3, marked for identification: copy of yellow  
pages from phone book for 1999

Recess: 3:12 P.M.

Reconvene: 3:31 P.M.; All Parties present

At 4:47 p.m. Court is adjourned

CONTINUED TO - 04/06/2004 at 10:00am 2, JURY TRIAL

People's Brief Concerning Motive Evidence filed

04/06/2004 DE 1 Courtroom Minutes of Department 2

HON: R.BALLINGER DDA: Christine M Cook REP: R L Whitney CLK: LA  
JURY TRIAL 5th DAY

District Attorney Greg Jacobs also present

Defendant present in custody

Defense Counsel J. David Nick appearing

At 10:28 a.m. Court convenes.

Defense calls Detective Russell Davidson, previously sworn, retakes  
the stand and further testifeis.

Cross examination

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04/06/2004 DE 1 Courtroom Minutes of Department 2 (continued)

Court's exhibit 4, marked for identification: 17 page document including copy of arrest warrant

Redirect

Witness excused

Defense call Detective Bradford Burke, sworn and testified.

Defense Supplemental Memo Of Points And Authorities In Support Of Motion In Limine To Dismiss Due To Denial Of Right To Due Process Under Constitution Of United State Of America Based Upon Preaccusation Delay filed

At 11:54 a.m. Court declares regularly scheduled break

Reconvene: 2:25 p.m.; All Parties present

Detective Bradford Burke retakes the stand and further testifies

Cross examination

Redirect

Witness excused, subject to recall

At 3:25 p.m. Court declared brief break

Reconvene: 3:40 p.m.; All Parties present

Defense calls Chris Reynolds, sworn and testified

Cross examination

CONTINUED TO - 04/07/2004 at 10:00am 2, JURY TRIAL

Witness steps down

At 5:05 p.m. Court is adjourned

04/07/2004 DE 1 Courtroom Minutes of Department 2

HON: R.BALLINGER DDA: Craig T Brooks REP: C A Martinez CLK: LA

JURY TRIAL 6th DAY

Defendant present in custody

Deputy District Attorney Christine Cook also appearing

Defense Counsel J. David Nick appearing

At 10:34 a.m. Court convenes, All parties are present.

Detective Russell retakes the stand and further testifies.

Cross examination

Witness steps down

Counsel stipulate the Mr. Nick first appeared on this case on 1/23/04

Counsel stipulate that DAR number was assigned on 4/29/02

Defense calls Martin Marovich, sworn and testified

Cross examination

Witness steps down

Defense calls Richard Marovich, sworn and testified

Cross examination

Redirect

Recross

Witness excused

At 11:25 a.m. Court declares regularly scheduled noon break

Reconvene: 1:36 p.m.; All Parties present

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04/07/2004 DE 1 Courtroom Minutes of Department 2 (continued)

People call Detective Russell Davidson, sworn and testified on behalf of the People  
Cross examination  
Witness steps down  
People call Phil Abrams Deputy District Attorney, sworn and testified on behalf of the People  
Cross examination  
Witness steps down  
People call Larry Scoful, Deputy District Attorney, sworn and testified on behalf of the People  
People's exhibit 5, marked for identification: copy of desk top calendar  
At 3:13 p.m. Court declares a brief recess  
At 3:35 p.m. Court reconvenes, all parties are present  
People call James Casey Deputy District Attorney, sworn and testified on behalf of the People  
Cross examination  
CONTINUED TO - 04/12/2004 at 10:00am 2, JURY TRIAL  
Witness steps down  
At 4:32 p.m. Court is adjourned

04/12/2004 DE 1 Courtroom Minutes of Department 2

HON: R.BALLINGER DDA: Christine M Cook REP: C A Martinez CLK: LA  
JURY TRIAL 7th DAY  
District Attorney Grege Jacobs also present  
Defendant present in custody  
Defense Counsel J. David Nick appearing  
Legal discussions are held re: Dismissal  
At 11:25 a.m. Court is adjourned.  
CONTINUED TO - 04/13/2004 at 10:00am 2, JURY TRIAL

04/13/2004 DE 1 Courtroom Minutes of Department 2

HON: R.BALLINGER DDA: Christine M Cook REP: C A Martinez CLK: LA  
JURY TRIAL 8th Day  
District Attorney Greg Jacobs also present  
Defendant present in custody  
Defense Counsel J. D.Nick appearing  
Counsel Christine Cook also present  
At 11:05 a.m. Court convenes  
Legal discussions held re: Cont. 995 Motion  
CONTINUED TO - 04/14/2004 at 10:30am 2, JURY TRIAL  
Defendant and Counsel Nick waive their presence during Court viewing evidence presented at Preliminary Exam

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04/14/2004 DE 1 Courtroom Minutes of Department 2

HON: R.BALLINGER DDA: Christine M Cook REP: C A Martinez CLK: LA  
JURY TRIAL 9th DAY

District Attorney Greg Jacobs also present

Defendant present in custody

Defense Counsel J. D. Nick appearing

Deputy District Attorney C. Cook present

At 10:38 a.m. Court convenes

Counsel J. Nick addresses the Court

Court makes the following RULING:

995 Motion is DENIED over objection of Defense

Court GRANTS Motion For Return Of Mental Health Records

Court orders that District Attorney return to Counsel Nick all  
Mental Health records. Court further orders that the Distict Attny  
Sign a Statement Under Penalty Of Perjury that all original mental  
health records and all copies have been returned to defense Counsel

At 10:57 a.m. Court declares a brief break

At 11:39 a.m. Court reconvenes - All parties are present

Court will allow blood splatter analysis video

At 11:42 a.m. Court declares regularly scheduled lunch break

Court's exhibit(s) 6, marked for identification: 16X20 photo of  
Mr. Blore's head

Court's exhibit(s) 7, marked for identification: 16X20" photo of  
Mr. Blore's right chest

Court's exhibit(s) 8, marked for identification: 16X20" photo of  
Mr. Blore's chest close up

Court's exhibit(s) 9, marked for identification: 16X20" photo of  
livingroom

Court's exhibit(s) 10, marked for identification: 16X20" photo of  
wall above Mr. Blore

Court's exhibit(s) 11, marked for identification: 16X20" photo of  
Mr. Grahlmann

Court's exhibit(s) 12, marked for identification: 16X20" photo of  
Mr. Grahlmann with evidence tag

Court's exhibit(s) 13, marked for identification: 16X20" photo of  
Mr. Grahlmann from behind

Court's exhibit(s) 14, marked for identification: 16X20" photo of  
Mr. Grhalmann's from a distance

Court's exhibit(s) 15, marked for identification: 16X20" photo of  
Mr. Grahlmann from behind/side

Court's exhibit(s) 16, marked for identification: 16X20" photo of  
Mr. Grahlmann's head outside

Court's exhibit(s) 17, marked for identification: 16X20" photo of  
Mr. Grahlmann's hands bagged

Court's exhibit(s) 18, marked for identification: 16X20" photo of  
Mr. Blore's arm

Court's exhibit(s) 19, marked for identification: 3X5" photo of

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04/14/2004 DE 1 Courtroom Minutes of Department 2 (continued)

Mr. Blore's autopsy chest/arm

Court's exhibit(s) 20: 3X5" photo of Mr. Grahlmann's autopsy head, marked for identification:

Court's exhibit(s) 21, marked for identification: 3X5" photo of Mr. Blore's torso with shirt

Court's exhibit(s) 22, marked for identification: 16X20" photo of Mr. Grahlmann's autopsy

Court's exhibit(s) 23, marked for identification: 16X20" photo of Mr. Grahlmann's ear

Court's exhibit(s) 24, marked for identification: 16X20" photo of Mr. Blore's arm

Court's exhibit(s) 25, marked for identification: 16X20" photo of Mr. Blore alive

Court's exhibit(s) 26, marked for identification: 16X20" photo of Mr. Blore alive

Court's exhibit(s) 27, marked for identification: 16x20" photo of Mr. Grahlmann alive

Court's exhibit(s) 28, marked for identification: 16X20" photo of Mr. Blore behind computer

Court's exhibit(s) 29, marked for identification: 16X20" photo of Mr. Blore behind computer from his feet

Court's exhibit(s) 30, marked for identification: 16x20" photo of telephone

Court's exhibit(s) 31, marked for identification: 3X5" photo of Mr. Grahlmann's head/ear

Court's exhibit(s) 32, marked for identification: 3X5" photo of Mr. Grahlmann's head/chin

Court's exhibit(s) 33, marked for identification: 3x5" photo of Mr. Blore with telephone

Reconvene: 1:40 p.m.; All Parties present

Testimony resumes re: Preaccusation Delay

Defense calls Thomas Lynch, sworn and testified

Cross examination

Witness excused

Court's exhibit(s) 34, marked for identification: 1 page copy of telephone records

People's exhibit #34 received into evidence.

Defense calls Otto G. Meyer, sworn and testified

Side bar conference is held

Cross examination

Redirect

Witness excused

Counsel stipulate to custody status and location of Dre Buetow from 3/1/00 to 8/31/00.

Counsel stipulate Mr. Buetow arrived on 2/28/00 from Nebraska on a on No Bail warrant

Defense exhibit(s) #35, marked for identification: yellow and



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04/14/2004 DE 1 Courtroom Minutes of Department 2 (continued)

white pages from phone book of 9/17/99

At 2:27 p.m. Court declares a brief break

Reconvene: 2:37; All Parties present

Counsel stipulate that Court's exhibits #7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, and 33 may be introduced into evidence

At 3:27 p.m. Court declares a brief break

Reconvene: 3:51 p.m.; All Parties present

Courts exhibit(s) 36, marked for identification: 3X4" photo of Mr. Blore behind computer

Courts exhibit #29 is withdrawn

People call Detective Russell Davidson, sworn and testified.

Cross examination

CONTINUED TO - 04/16/2004 at 10:00am 2, JURY TRIAL

At 4:38 Court is adjourned for the day.

04/16/2004 DE 1 Courtroom Minutes of Department 2

HON: R.BALLINGER DDA: Christine M Cook REP: C A Martinez CLK: LA  
JURY TRIAL 10th DAY

Defendant present in custody

Defense Counsel J. David Nick appearing

At 10:42 a.m. Court convenes

District Attorney Greg Jacobs also present.

The Court makes the following RULING:

Court denies the People using Court's exhibit #25

Court's exhibit #26 will be modified, picture will be cropped

Court's exhibit #27 will be modified, picture will be cropped

Court's exhibit #36 will be used in lieu of Court's exhibit #29

People call Detective Russell Davidson, sworn and testified.

Court's exhibit #37, marked for identification: VHS tape case

Court's exhibit #37A, marked for identification: VHS tape

Court's exhibit #37b, marked for identification: transcript of taped interview #37A

Court's exhibit #38, marked for identification: 1 page

transcript of taped interview

Court's exhibit(s) #37, #37A, #37B, #38 received into evidence.

Cross examination

Redirect

Witness is excused

CONTINUED TO - 04/19/2004 at 9:30am 2, JURY TRIAL

At 11:35 a.m. Court is adjourned

04/19/2004 DE 1

CONTINUED TO - 04/19/2004 at 10:00am 2, JURY TRIAL

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04/19/2004 DE 1 Courtroom Minutes of Department 2

HON: R.BALLINGER DDA: Christine M Cook REP: C A Martinez CLK: LA  
JURY TRIAL 11th DAY  
Defendant present in custody  
Defense Counsel J. David Nick appearing  
District Attorney Greg Jacobs also present  
At 10:25 a.m. Court convenes.  
Side bar conference is held  
Defense argues  
People respond  
At 11:44 a.m. Court declares regularly scheduled noon break  
Reconvene: 1:53 p.m.; All Parties present  
402 Hearing re: Preaccusation Delay cont.  
Defense calls Sgt. Bradford Burke, sworn and testified  
Cross examination  
Redirect  
Witness steps down  
People argue  
At 3:02 p.m. Court declares a brief recess  
Reconvene: 3:17 p.m.; All Parties present  
People's argument cont.  
At 4:07 p.m. Court declares a brief recess  
Reconvene: 3:24 p.m. All parties present  
Defense responds  
At 4:39 p.m. Court goes off the bench briefly  
CONTINUED TO - 09/20/2004 at 10:00am 2, JURY TRIAL  
At 4:42 p.m. Court is adjourned  
DROPPED FROM CALENDAR - 09/20/2004 at 10:00am 2  
CONTINUED TO - 04/20/2004 at 10:00am 2, JURY TRIAL

04/20/2004 DE 1 Courtroom Minutes of Department 2

HON: R.BALLINGER DDA: CDC REP: C A Martinez CLK: LA  
JURY TRIAL 12th DAY  
Defendant present in custody  
Defense Counsel J. David Nick appearing  
District Attorney Greg Jacobs also present  
At 11:03 a.m. Court convenes  
Counsel J. David Nick argues Discovery Issue  
At 12:00 p.m. Court declares regularly scheduled noon recess  
Reconvene: 1:38 p.m.; All Parties present  
Counsel Greg Jacobs responds  
Court orders all members of the District Attorney and Sheriff's  
Department who worked on this case to meet prior to Friday  
Defense calls Detective Russell Davidson, sworn and testified.  
Cross examination  
Counsel argues Preaccusatory Delay



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04/20/2004 DE 1 Courtroom Minutes of Department 2 (continued)

At 2:55 p.m. Court declares a brief break  
Reconvene: 3:25 p.m.; All Parties present  
CONTINUED TO - 04/21/2004 at 10:00am 2, JURY TRIAL  
Court adjourns at 4:03 p.m.

04/21/2004 DE 1 Courtroom Minutes of Department 2

HON: R.BALLINGER DDA: Christine M Cook REP: C A Martinez CLK: LA  
JURY TRIAL 13th DAY  
Defendant present in custody  
Defense Counsel J. David Nick appearing  
District Attorney Greg Jacobs also present  
At 10:35 a.m. Court convenes  
Court's exhibit(s) #39, marked for identification: 18 page  
document  
Counsel Cook addresses the Court  
Court's exhibit(s) #40, marked for identification: summary of  
powerpoint  
Counsel Jacobs addresses the Court  
Defense responds  
At 11:58 a.m. Court declares regularly scheduled noon recess  
Reconvene: 1:37 p.m.; All Parties present  
Court makes the following RULING: there will be no reference to  
"assault rifle".  
Counsel argue Motion to exclude knife  
Counsel Nick responds  
At 3:05 p.m. Court declares a brief recess  
Reconvene: 3:20 p.m. All parties are present  
Counsel Nick continues response  
Counsel Cook responds  
CONTINUED TO - 04/26/2004 at 10:00am 2, JURY TRIAL

04/23/2004 DE 1 Courtroom Minutes of Department 2

HON: R.BALLINGER DDA: Brian Staebell REP: C A Martinez CLK: LA  
IN CHAMBERS  
Defendant not present in custody  
Defense Counsel J. David Nick not present  
DROPPED FROM CALENDAR - 04/26/2004 at 10:00am 2  
CONTINUED TO - 04/27/2004 at 10:00am 2, JURY TRIAL

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04/27/2004 DE 1 Courtroom Minutes of Department 2

HON: R.BALLINGER DDA: Christine M Cook CLK: LA  
Defendant not present  
Defense Counsel J. David Nick, not present  
CONTINUED TO - 04/28/2004 at 10:00am 2, JURY TRIAL

04/28/2004 DE 1

DROPPED FROM CALENDAR - 04/19/2004 at 9:30am 2

04/28/2004 DE 1 Courtroom Minutes of Department 2

HON: R.BALLINGER DDA: Christine M Cook REP: C A Martinez CLK: LA  
JURY TRIAL 14th DAY  
Defendant present in custody  
Defense Counsel J. David Nick appearing  
District Attorney Greg Jacobs also present  
At 1:41 p.m. Court convenes  
Argument continues re: Third Party Culpability  
At 2:18 p.m. Court declares a break  
Reconvene: 3:48 p.m.; All Parties present  
Court makes the following RULING:  
As to Voluntariness Motion To Suppress is DENIED, defendant was  
not in custody at the time  
As to Pre-accusatory Delay Motion DENIED  
CONTINUED TO - 04/30/2004 at 9:30am 2, JURY TRIAL  
At 4:14 p.m. Court is adjourned

04/30/2004 DE 1 Courtroom Minutes of Department 2

HON: R.BALLINGER DDA: Christine M Cook REP: C A Martinez CLK: LA  
JURY TRIAL 15th DAY  
Defendant present in custody  
Defense Counsel J. David Nick appearing  
District Attorney Greg Jacobs also present  
Motions In Limine continue to be argued  
Counsel Jacobs argues  
Court's exhibit #41, marked for identification: search warrant  
affadavit for Wheeler  
Court's exhibit #42, marked for identification: police report  
Counsel Nick responds  
CONTINUED TO - 05/03/2004 at 1:30pm 2, JURY TRIAL  
At 12:06 p.m. Court is adjourned

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05/03/2004 DE 1 Courtroom Minutes of Department 2

HON: R.BALLINGER DDA: Christine M Cook REP: C A Martinez CLK: LA  
JURY TRIAL 16th DAY  
Defendant present in custody  
Defense Counsel J. David Nick appearing  
District Attorney Greg Jacobs also present  
At 1:56 p.m. Court convenes  
People's Motions In Limine continue  
At 2:42 p.m. Court declares a brief break  
At 2:47 p.m Court reconvenes All parties are present  
Counsel Nick responds  
People's exhibit #43, marked for identification: 16 page  
affidavit of Detective Davidson  
At 3:25 p.m. Court declares a brief break  
At 4:02 p.m. Court reconvenes - All parties are present  
Court reserves Ruling  
Court RULES that Counsel Nick is not required to turn over interview  
of witness  
Court's exhibits #6 through #33 to remain with DA for safekeeping  
CONTINUED TO - 05/05/2004 at 10:00am 2, JURY TRIAL  
At 4:38 p.m. Court is adjourned

05/04/2004 DE 1 Courtroom Minutes of Department 2

HON: R.BALLINGER DDA: Greg J. Jacobs CLK: LA  
Judge has file  
Defendant not present in custody  
Defense Counsel J David Nick not present  
Vacated - 05/05/2004 at 10:00am 2  
CONTINUED TO - 05/10/2004 at 9:30am 2, JURY TRIAL, CONTINUED

05/04/2004 DE 1

DEFENDANT'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF  
DEFENDANT'S IN LIMINE MOTION TO EXCLUDE STATEMENTS PUR US V.  
CRAWFORD FIL

05/07/2004 DE 1

Defendants Motion in Limine for Order for Sanctions for  
Prosecution's Discovery Violations FILED

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05/10/2004 DE 1 Courtroom Minutes of Department 2

HON: R.BALLINGER DDA: Christine M Cook REP: P Schrader CLK: LA  
JURY TRIAL 17th DAY  
Defendant present in custody  
Defense Counsel J. David Nick appearing  
District Attorney Greg Jacobs also present  
At 11:02 a.m. Court convenes.  
Motions In Limine continue re: Writings and Third party Culpability  
Counsel Nick addresses the Court  
At 11:36 a.m. Court declares regularly scheduled noon break  
At 1:39 p.m. Court reconvenes - All parties are present  
Counsel Jacobs responds  
At 2:26 Court declares a brief break  
Counsel Cook responds  
At 2:35 p.m. Court reconvenes. All parties are present  
At 2:56 p.m. Court declares a brief break  
At 3:24 p.m. Court reconvenes - All parties are present  
Counsel Cook continues response  
At 5:02 p.m. Court is adjourned  
CONTINUED TO - 05/11/2004 at 1:30pm 2, JURY TRIAL

05/11/2004 DE 1 Courtroom Minutes of Department 2

HON: R.BALLINGER DDA: Christine M Cook REP: S STANDISH CLK: LA  
JURY TRIAL 18th DAY  
Defendant present in custody  
Defense Counsel J. David Nick appearing  
District Attorney Greg Jacobs also present  
At 1:50 p.m. Court convenes  
Counsel Cook reopens People's argument to Motion  
At 2:15 p.m. Court declares a brief recess  
At 2:35 p.m. Court reconvenes - All parties are present  
Counsel Jacobs addresses the Court  
Counsel Nick responds  
At 3:17 p.m. Court declares a brief recess  
At 3:33 p.m. Court reconvenes - All parties are present  
Defendant's memorandum Of Points And Authorities In Support Of Def-  
endant's Motion To Inspect And Copy Calaveras County Probation  
Report And Records Of Prosecution Witness Tyson McLain Pursuant To  
Penal Code 1203.05 And Government Code 6250  
At 3:54 p.m. Court is adjourned  
CONTINUED TO - 05/14/2004 at 10:00am 2, JURY TRIAL

SCR-32528 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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05/14/2004 DE 1 Courtroom Minutes of Department 2

HON: R.BALLINGER DDA: GREGORY JACOBS REP: KAREN THOMPSON CLK: IR  
\*\*\*\*\* Jury Trial Motions - 19th day\*\*\*\*\*  
Defendant present in custody  
Defense Counsel J. David Nick appearing  
Motions heard and held on the record  
Jury Trial Set - 05/17/2004 at 10:00am 2, JURY TRIAL, CONTINUED,  
MOTION

05/17/2004 DE 1 Courtroom Minutes of Department 2

HON: R.BALLINGER DDA: Greg J. Jacobs REP: C A Martinez CLK: PJS  
Defendant present in custody  
Defense Counsel J. David Nick appearing  
JURY TRIAL - MOTIONS - 20TH DAY  
At 10:47am, the Court convenes.  
Mental health records of Mr. Rutledge are handed to Mr. Nick by  
Mr. Jacobs  
Declaration by Gregory J. Jacobs re: Mental Health Records filed  
Mr. Nick argues to the Court re: sanctions for discovery violations  
Mr. Reynolds is sworn and testifies on behalf of the defendant.  
No cross examination  
Court's exhibit # 44 is marked for identification: copy of one  
page document  
People's opposition to defendant's motion in limine for sanctions  
for discovery violations filed  
Court's exhibit #45 is marked for identification: copy of one  
page document  
Court's exhibit #46 is marked for identification: copy of part of  
Detective Davidson's report  
Court's exhibit #47 is marked for identification: copies of  
America's Most Wanted tip sheets  
Court's exhibit #48 is marked for identification: copy of letter  
from Brad Burke  
At 12 noon, the Court declares a recess  
At 1:40pm, the Court reconvenes, All parties present  
Argument by Mr. Nick continues  
Court's exhibit #49 is marked for identification: investigation  
report from Tom Johnson to Ande Thomas  
Court's exhibit #50 is marked for identification: copy of e-mail  
from Tom Johnson to Brad Burke, dated 11-8-02  
Court's exhibit #51 is marked for identification: page 13 of 26 -  
narrative report prepared by Detective Davidson  
Ande Thomas is sworn and testifies on behalf of the defense.  
Cross examination  
Court questions the witness  
Recess: 2:45pm

SCR-32528 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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05/17/2004 DE 1 Courtroom Minutes of Department 2 (continued)

Reconvene: 3:10pm; All Parties present

Mr. Thomas, heretofore sworn, resumes the stand

Redirect

Recross

Witness steps down

Court's exhibit #52 is marked for identification: copy of page 43  
of 43 - audio tape transcript

Court's exhibit #53 is marked for identification: copy of video  
tape transcript

Court's exhibit #54 is marked for identification: copy of e-mail  
from Jim Casey to Ande Thomas dated 10-10-02

Court's exhibit #55 is marked for identification: copy of e-mail  
from Jim Casey to Ande Thomas dated 10-9-02

Mr. Jacobs addresses the Court

Jury Trial Set - 05/19/2004 at 10:00am 2, JURY TRIAL, CONTINUE

05/19/2004 DE 1 Courtroom Minutes of Department 2

HON: R.BALLINGER DDA: Christine M Cook REP: F SANDERS CLK: LA  
JURY TRIAL 21st DAY

Defendant present in custody

Defense Counsel J. David Nick appearing

Deputy District Attorney Greg Jacobs also present

At 10:27 a.m. Court convenes

Court addresses Counsel

Counsel Jacobs responds re: paint on knife and Mr. Potts reports  
Unreported in chambers conference held

Defense calls Mr. Michael Potts, sworn and testified

Court's exhibit #56, marked for identification: 1 page letter  
written by Mr. Potts

Court's exhibit #57, marked for identification: copy of 1 page  
document page 4 of Mr. Potts report

Court's exhibit #58, marked for identification: copy of 1 page  
document page 5 of Mr. Potts report

Court's exhibit #59, marked for identification: copy of 1 page  
document page 6 of Mr. Potts report

Court's exhibit #60, marked for identification: copy of 1 page  
document page 7 of Mr. Potts report

Court's exhibit #61, marked for identification: copy of 1 page  
document page 8 of Mr. Potts report

Court's exhibit #62, marked for identification: 1 page document  
"verbal communication" for Dept. Of Justice

Mr. Potts steps down.

At 12:01 p.m. Court declares regularly scheduled noon break

Reconvene: 1:43; All Parties present

Mr. Potts heretofore sworn, retakes the stand and further testifies

Cross examination conducted by Counsel Jacobs

SCR-32528 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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05/19/2004 DE 1 Courtroom Minutes of Department 2 (continued)

Redirect

Court questions witness

At 2:26 p.m. Court declares a brief recess

Reconvene: 2:54 p.m.; All Parties present

People call Deputy District Attorney James Casey, sworn and testified.

People's exhibit 363, marked for identification: copy of 2 page letter from Deputy Public Defender Ande Thomas

Cross examination conducted by Counsel Jacobs

Redirect

Witness excused

People call Sgt. Russell Davidson, sworn and testified.

Cross examination

Witness excused.

Counsel Nick argues Common Law Motion To Dismiss

At 4:36 p.m. Court is adjourned to reconvene on May 21, 2004 at 10am

CONTINUED TO - 05/20/2004 at 10:00am 2, JURY TRIAL

DROPPED FROM CALENDAR - 05/20/2004 at 10:00am 2

CONTINUED TO - 05/21/2004 at 10:00am 2, JURY TRIAL

05/21/2004 DE 1 Courtroom Minutes of Department 2

HON: R.BALLINGER DDA: Christine M Cook REP: C A Martinez CLK: LA

JURY TRIAL 22nd DAY - MOTIONS

Defendant present in custody

Defense Counsel J. David Nick appearing

Deputy District Attoreny Greg Jacobs also present

At 10:36 a.m. Court convenes

Counsel J. D. Nick addresses the Court re: Sanctions re: Discovery

CONTINUED TO - 05/25/2004 at 1:30pm 2, JURY TRIAL

At 11:01 a.m Court is adjourned

05/25/2004 DE 1

CONTINUED TO - 05/25/2004 at 1:30pm 2, JURY TRIAL

05/25/2004 DE 1 Courtroom Minutes of Department 2

HON: R.BALLINGER DDA: Christine M Cook REP: C A Martinez CLK: LA

JURY TRIAL 23rd DAY MOTIONS

Defendant present in custody

Defense Counsel J. David Nick appearing

At 1:28 p.m. Court convenes

Deputy District Attorney Greg Jacobs also present

Counsel Jacobs responds to Defense Motion Re: Sanctions re: Disc

People call Deputy Public Defender Ande Thomas, sworn and testified.

Cross examination



SCR-32528 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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05/25/2004 DE 1 Courtroom Minutes of Department 2 (continued)

Court's exhibit #64, marked for identification: copy of article  
re: paint samples

Witness excused

Defense renews 995 Motion

Court's exhibit #65, marked for identification: copy of  
transcript pages 169 through 175

Court's exhibit #66, marked for identification: copy of forensic  
analysis

At 2:47 p.m. Court declares a brief recess

At 3:17 p.m. Court reconvenes - All parties are present

Counsel Jacobs argues Discovery issue

CONTINUED TO - 05/26/2004 at 1:30pm 2, JURY TRIAL

At 4:09 p.m. Court is adjourned to reconvene May 26, 2004 at 1:30 pm  
Courtroom 2

05/26/2004 DE 1 Courtroom Minutes of Department 2

HON: R.BALLINGER DDA: Christine M Cook REP: C A Martinez CLK: LA  
24th DAY JURY TRIAL MOTIONS CONTINUES

At 1:40 P.M. Court convenes

Defendant present in custody

Defense Counsel J David Nick appearing

Deputy District Attorney Greg Jacobs also present

Counsel Nick addresses the Court

Rebuttal

Counsel Jacobs responds

Submitted

Counsel Jacobs addresses the Court re: 3rd Party culpability

Counsel Cook addresses the Court re; prior conviction

Recess: 3:00 p.m.

Reconvene: 3:28 p.m. All parties are present

Court grants People's Motion to re-open re: shotgun

Counsel Nick responds

Counsel Cook responds

Counsel Nick responds

Submitted

Court's exhibit #67, marked for identification: redacted copy of  
interview with defendant Rutledge

Court's exhibit(s) #67 received into evidence.

At 4:25 p.m. Court is adjourned

Matter CONTINUED to 6/7/04 at 10:00 a.m. Courtroom 2



SCR-32528 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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06/04/2004 DE 1 Courtroom Minutes of Department 2

HON: R.BALLINGER DDA: Christine M Cook CLK: LA  
IN CHAMBERS  
Defendant not present in custody  
CONTINUED TO - 06/09/2004 at 10:00am 2, JURY TRIAL

06/04/2004 DE 1

REPORTER'S TRANSCRIPT FILED PROCEEDINGS OF 10/30/02

06/08/2004 DE 1

Def's Obj. to Intro of Portions of the Statements Made by  
Def and Law Enf. Officers in 9/17/99 Inter. with Def FILED

06/08/2004 DE 1 Courtroom Minutes of Department 2

HON: R.BALLINGER DDA: Christine M Cook CLK: LA  
IN CHAMBERS MINUTES  
Defendant not present in custody  
Defense Counsel J David Nick not present  
DROPPED FROM CALENDAR - 06/09/2004 at 10:00am 2  
CONTINUED TO - 06/14/2004 at 10:00am 2, JURY TRIAL

06/10/2004 DE 1

FILE IN JUDGE BALLINGER'S CHAMBERS

06/11/2004 DE 1

PEO'S SUPPLEMENTAL OFFER OF PROOF RE: ADMISSIBILITY OF DEFT  
'S WRITINGS FILED

06/14/2004 DE 1 Courtroom Minutes of Department 2

HON: R.BALLINGER DDA: Christine M Cook REP: C A Martinez CLK: LA  
25th DAY JURY TRIAL  
Defendant present in custody  
Defense Counsel J David Nick appearing  
At 1:37 p.m. Court convenes  
Deputy District Attorney Greg Jacobs is also present  
Regarding Defense Non-statutory 995 Motion was properly filed  
Court states on the record reasons for this Court's decision  
Court finds there is a reasonable expectation that the prior Magis-  
trate would not have found a holding order  
Court GRANTS Defense Motion to DISMISS  
Court orders that Defendant be released FORTHWITH  
995 PC Motion Granted  
Case Dismissed

SCR-32528 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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06/21/2004 DE 1

AUTOMATED 8715 REPORT ISSUED

08/17/2004 DE 1

REPORTER'S TRANSCRIPT FILED PRETRIAL MOTION

08/26/2004 DE 1

FILES TO SUSAN STANDISH-COURT ANEX #19

08/30/2004 DE 1

REPORTER'S TRANSCRIPT FILED PRETRIAL MOTIONS

10/20/2004 DE 1

REPORTER'S TRANSCRIPT FILED PROCEEDINGS 3/8/04

REPORTER'S TRANSCRIPT FILED MOTIONS 3/12/04

REPORTER'S TRANSCRIPT FILED MOTIONS 4/2/04

REPORTER'S TRANSCRIPT FILED PROCEEDINGS 4/5/04

REPORTER'S TRANSCRIPT FILED MOTIONS 4/12/04

REPORTER'S TRANSCRIPT FILED MOTIONS 4/13/04

REPORTER'S TRANSCRIPT FILED MOTIONS 4/14/04

REPORTER'S TRANSCRIPT FILED MOTIONS 4/16/04

REPORTER'S TRANSCRIPT FILED MOTIONS 4/19/04

REPORTER'S TRANSCRIPT FILED MOTIONS 4/20/04

REPORTER'S TRANSCRIPT FILED MOTIONS 4/21/04

REPORTER'S TRANSCRIPT FILED MOTIONS 4/28/04

REPORTER'S TRANSCRIPT FILED MOTIONS 4/30/04

REPORTER'S TRANSCRIPT FILED MOTIONS 5/3/04

REPORTER'S TRANSCRIPT FILED MOTIONS 5/17/04

REPORTER'S TRANSCRIPT FILED MOTIONS 5/21/04

REPORTER'S TRANSCRIPT FILED MOTIONS 5/25/04

REPORTER'S TRANSCRIPT FILED MOTIONS 5/26/04

02/28/2005 DE 1

REPORTER'S TRANSCRIPT FILED PRETRIAL MOTION

09/01/2005 DE 1

SUBPOENED\_RECORDS\_DESTROYED

01/17/2006 DE 1

CONTINUED TO - 01/20/2006 at 8:30am 14, RECONSIDERATION

01/19/2006 DE 1

ORDER SHRTNG TIME FOR FILING OF PEOPLE'S OPPO TO DEF'S MOTION TO  
RE-CONSIDER DEF'S NONSTATUTORY MTN TO DISMISS BASED UPON PREVIOUSLY  
UN-

PEOPLE'S OPPOSITION TO DEF'S MOTION TO RECONSIDER DEF'S  
NONSTATUTORYMOTION TO DISMISS BASED UPON UNDISCLOSED EVIDENCE FILED

SCR-32528 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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01/20/2006 DE 1 Courtroom Minutes of Department 14

HON: R.BALLINGER DDA: Christine M Cook REP: C A Martinez CLK: LA  
Defendant present in custody  
Defense Counsel J David Nick appearing  
CONTINUED TO - 01/24/2006 at 8:30am 14, RECONSIDERATION

01/23/2006 DE 1

Defendant's Supplem. Reply to People's Opp. to Motion to  
Reconsider Def's Nonstatutory Mot to Dismiss RECEIVED

01/24/2006 DE 1 Courtroom Minutes of Department 14

HON: R.BALLINGER DDA: Christine M Cook REP: C A Martinez CLK: LA  
Defendant present in custody  
Defense Counsel J David Nick appearing  
Defense argues  
People respond  
Submitted  
This Court rules that it does not have authority to do anything  
further in this case

02/24/2006 DE 1

REC'D COPY OF: PETITION FOR WRIT OF PROHIBITION/MANDATE W/ EXHIBITS  
AND MEMO OF POINTS & AUTHORITIES FROM D.C.A.  
SENT JUDGE BALLINGER-#14 DCA COPIES OF PETITION FOR WRIT OF PROHIB.  
MANDATE..., AND EXHIBITS IN SUPPORT OF..  
PETITION FOR WRIT OF PROHIBITION/MANDATE IS DENIED.

03/12/2007 DE 1

NTC RE: DISPOSITION OF EXHIBITS FILED

\*\*\*\*\* End of Docket \*\*\*\*\*

## **EXHIBIT B**

MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA swilliam Page 1  
CRIMINAL DOCKET Printed 9/28/2007 11:40

Docket of

DE 1 RUTLEDGE, ZACHARIAH JUDSON  
DOB 01/25/1976 DLN CA A9920344

Offense Date: 10/23/1998  
DA #: DAR-443724

Filed Charges

F PC 187(a) 2 Counts Held to Answer  
F PC 187(a) 2 Counts Acquitted

F PC 459 Held to Answer  
F PC 459 Acquitted

Arresting Agency: SONOMA COUNTY SHERIFF'S DEPT  
Box Number: C00950

Agency #: SCY-98102411  
DA Location: LSTMG  
=====

06/14/2004 DE 1

ADDED TO CALENDAR BY JAIL - 06/16/2004 at 8:30am 4, IN CUSTODY

06/15/2004 DE 1

COMPLAINT FILED

F PC 187(a) 2 Counts

F PC 459

06/16/2004 DE 1 Courtroom Minutes of Department 4

HON: C. WONG DDA: Greg J. Jacobs REP: TERI HOSMER CLK: CM  
Defendant present in custody  
Defense Counsel J David Nick appearing  
Conflict Counsel appointed by the Court per Harris 19 cal 3rd 786  
pg. 796

AMENDED COMPLAINT FILED

F PC 187(a) 2 Counts

F PC 459

NO BAIL

CONTINUED TO - 07/21/2004 at 8:30am 4, DEMURRER

07/21/2004 DE 1 Courtroom Minutes of Department 4

HON: Dean A. Beaupre DDA: Carla L Claeys REP: SHELLY BERG CLK: PJS  
Defendant present in custody  
Defense Counsel J David Nick not present; R. Scott appearing  
CONTINUED TO - 07/28/2004 at 8:30am 4, APPEARANCE OF COUNSEL,  
FURTHER PROCEEDINGS

MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

Page 2

07/28/2004 DE 1 Courtroom Minutes of Department 4

HON: Dean A. Beaupre DDA: Christine M Cook REP: SHELLY BERG CLK: PJS  
DA: G Jacobs  
Defendant present in custody  
Defense Counsel J David Nick not present, E Michael Linscheid  
appearing  
People's response due 09/15/2004  
CONTINUED TO - 08/25/2004 at 8:30am 4, Filing of motion  
Demurrer Motion Set - 09/22/2004 at 1:30pm 4, DEMURRER

08/25/2004 DE 1 Courtroom Minutes of Department 4

HON: C. WONG DDA: Christine M Cook REP: SHELLY BERG CLK: JT1  
Defendant present in custody  
Defense Counsel J David Nick appearing  
170.6 CCP filed re: Judge Ballinger by DA  
Court will contact court reporters regarding transcripts request by  
Mr. Nick  
Vacated - 09/22/2004 at 1:30pm 4  
CONTINUED TO - 09/27/2004 at 8:30am 4, DEMURRER

09/27/2004 DE 1 Courtroom Minutes of Department 4

HON: C. WONG DDA: Christine M Cook REP: SHELLY BERG CLK: PJS  
Defendant present in custody  
Defense Counsel J David Nick appearing  
Defendant continues to waive time  
CONTINUED TO - 11/01/2004 at 8:30am 1, Filing of motion

11/01/2004 DE 1 Courtroom Minutes of Department 1

HON: R.DALE DDA: Christine M Cook REP: B L Peterson CLK: KKK  
Defendant present in custody  
Defense Counsel J David Nick appearing  
CONTINUED TO - 11/08/2004 at 8:30am 4, Filing of motion

11/08/2004 DE 1 Courtroom Minutes of Department 4

HON: C. WONG DDA: Christine M Cook REP: SHELLY BERG CLK: JT1  
Defendant present in custody  
Defense Counsel J David Nick appearing  
D/C files Def. Notice of Motion and Motion to Dismiss New Complaint;  
Demurrer; Decl. of J. David Nick.  
Response by 12-17-2004

MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

Page 3

11/08/2004 DE 1 Courtroom Minutes of Department 4 (continued)  
Reporter's transcript of 4-6-2004 filed  
Reporter's transcript of 4-7-2004 filed  
Motion to Dismiss Set - 01/05/2005 at 1:30pm 4, Motion to Dismiss

12/14/2004 DE 1  
REQUEST FOR ORDER EXTENDING TIME TO FILE PEOPLE'S RESPONSE TO  
DEFENDANT'S DEMURRER; AND CONTINUANCE OF HEARING DATE FILED  
CONTINUED TO - 12/17/2004 at 8:30am 4, CONTINUE

12/17/2004 DE 1 Courtroom Minutes of Department 4  
HON: C. WONG DDA: Christine M Cook REP: TERI HOSMER CLK: JT1  
No file  
Defendant present in custody  
Defense Counsel J. Nick not present, C. Andrian appearing  
Bail remains as set - no bail  
People file response by 1-7-2005 at 3:00 p.m.  
Vacated - 01/05/2005 at 1:30pm 4  
CONTINUED TO - 02/02/2005 at 2:30pm 4, Motion to Dismiss

01/07/2005 DE 1  
PEOPLE'S OPPO TO DEFENDANT'S MOTION TO DISMISS NEW COMPLAINT;  
DEMURRER FILED

01/24/2005 DE 1  
Defendant's Reply to People's Opposition to Defendant's  
Motion to Dismiss Demurrer Filed

01/26/2005 DE 1  
DEFENDANT'S REPLY TO PEOPLE'S OPPO TO DEFENDANT'S MOTION TO DISMISS  
NEW COMPLAINT; DEMURRER FILED

01/31/2005 DE 1  
PEOPLE'S RESPONSE TO DEFENSE REPLY; MOTION TO DISMISS NEW  
COMPLAINT; DEMURRER FILED

02/02/2005 DE 1  
ORDER SHORTENING TIME TO FILE PEOPLE'S NOTICE OF MOTION AND MOTION  
FOR A CONTINUANCE AND REQUEST TO RESCHEDULE HEARING FILED  
DCE IN SUPPORT OF ORDER SHORTENING TIME AND CONTINUANCE OF HEARING  
DATE FILED  
P & A'S IN SUPPORT OF PEOPLE'S MOTION TO CONTINUE FILED  
NOTICE OF PEOPLE'S MOTION TO CONTINUE AND PEOPLE'S MOTION TO  
CONTINUE FILED

MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

Page 4

02/02/2005 DE 1 Courtroom Minutes of Department 4

HON: C. WONG DDA: Christine M Cook REP: SHELLY BERG CLK: JT1  
No file; file with Judge Wong  
DA: G. Jacobs  
Defendant present in custody  
Defense Counsel J David Nick appearing  
Motion to Dismiss Held  
CONTINUED TO - 02/09/2005 at 1:30pm 4, RULING  
Re: ruling on motion to dismiss

02/09/2005 DE 1 Courtroom Minutes of Department 4

HON: C. WONG REP: SHELLY BERG CLK: JT1  
FILE IN DEPT. 4  
Defendant present in custody  
Defense Counsel J David Nick appearing  
DA: G.J. Jacobs and C.M. Cook appearing  
Defendant pleads Not Guilty to count I PC 187(a)  
Defendant pleads Not Guilty to count II PC 187(a)  
Defendant pleads Not Guilty to count III PC 459  
Enhancements/Allegations denied  
10th day is 2/28/2005.  
Defense Counsel waives single session rule for prelim (continuous).  
Defendant does not waive time  
Preliminary Examination set - 02/24/2005 at 9:30am 4, PRELIMINARY,  
SPECIAL SET  
Motion to Dismiss Denied, as stated on the record

02/15/2005 DE 1

NOTICE OF MOTION AND MOTION TO CONTINUE PRELIMINARY EXAMINATION  
PURS TO PENAL CODE 1050 DECLARATION OF COUNSEL FILED  
CONTINUED TO - 02/24/2005 at 9:30am 4, MOTION, CONTINUE

02/16/2005 DE 1

PEOPLE'S RESPONSE TO DEFENDANT'S MOTION TO CONTINUE PRELIMINARY  
EXAMINATION AND DECLARATION OF CHRISTINE COOK FILED

02/18/2005 DE 1 Courtroom Minutes of Department 4

HON: C. WONG DDA: Juliette Olson REP: A MERTLE CLK: JT1  
Defendant present in custody  
Defense Counsel J David Nick appearing  
People file (2) People's application for order for conditional Exam  
under PC 1335; (2) Declaration in support of application for  
conditional examination; (2) order for conditional examination per P  
C 1339  
Defendant waived time for Preliminary Hearing



MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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02/18/2005 DE 1 Courtroom Minutes of Department 4 (continued)

Defendant Waived Time for Preliminary Hearing, including 10 day rule

Defendant Waived Time for Preliminary Hearing, including 60 day rule

Preliminary Examination set - 04/04/2005 at 9:30am 2, PRELIMINARY, SPECIAL SET

Time estimate 5 to 7 days

Vacated - 02/24/2005 at 9:30am 4

02/23/2005 DE 1

DROPPED FROM CALENDAR - 02/24/2005 at 9:30am 4

03/02/2005 DE 1

DECLARATION IN SUPPORT OF ORDER FOR TEMPORARY REMOVAL OF PRISONER AND HIS PRODUCTION AS A WITNESS; DRE. ALLEN BUETOW FILED ORDER FOR TEMPORARY REMOVAL OF PRISONER AND HIS PRODUCTION AS A WITNESS; DRE ALLEN BUETOW FILED

03/03/2005 DE 1

REPORTER'S TRANSCRIPT FILED MOTION TO DISMISS  
REPORTER'S TRANSCRIPT FILED RULING

03/15/2005 DE 1

SUBPOENAED RECORDS FROM SBC PACIFIC BELL

03/21/2005 DE 1

SUBPOENAED RECORDS FROM APPLEWOOD INN RESTAURANT

03/22/2005 DE 1

NOTICE OF MOTION AND MOTION TO CONTINUE PRELIMINARY EXAMINATION;  
DEC OF COUNSEL FILED

CONTINUED TO - 03/24/2005 at 8:30am 3, MOTION, CONTINUE

PEOPLE'S RESPONSE TO DEFENDANT'S MOTION TO CONTINUE PRELIMINARY EXAMINATION AND DECLARATION OF CHRISTINE COOK FILED

MOVED TO - 03/24/2005 at 8:30am 4, MOTION, CONTINUE

03/24/2005 DE 1 Courtroom Minutes of Department 4

HON: C. WONG DDA: Christine M Cook REP: TERI HOSMER CLK: JT1

Defendant present in custody

Defense Counsel J David Nick appearing

Preliminary Examination set - 04/04/2005 at 9:30am 2, PRELIMINARY, SPECIAL SET

1050 PC Motion Denied

MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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03/30/2005 DE 1

SUBPOENAED RECORDS FROM FLAVORS UNLIMITED

04/04/2005 DE 1 Courtroom Minutes of Department 2

HON: C. WONG DDA: Christine M Cook REP: SHELLY BERG CLK: JT1  
File with Judge Wong  
Defendant present in custody  
Defense Counsel J David Nick appearing  
Parties state prelim was vacated due to writ  
CONTINUED TO - 04/12/2005 at 10:00am 2, FURTHER PROCEEDINGS

04/12/2005 DE 1 Courtroom Minutes of Department 2

HON: C. WONG DDA: Christine M Cook REP: TERI HOSMER CLK: JT1  
Pass to 1:30  
Defendant present in custody  
Defense Counsel J David Nick appearing  
CONTINUED TO - 05/31/2005 at 8:30am 2, CALENDAR CONTROL  
Reporter: T. Hosmer  
CONDITIONAL EXAMINATION 2:10 p.m.  
People call William McMahon, sworn and testified.  
Witness identifies Defendant(s).  
Cross examination  
Recess: 3:00 p.m.  
Reconvene: 3:19 p.m.; All Parties present  
Cross examination  
Witness excused  
People call James Rice, sworn and testified.  
Cross examination  
Witness identifies Defendant(s).  
Redirect  
Recross  
Witness excused  
Court orders transcript of today's proceeding be prepared and  
sealed, to be kept with clerk in courtroom 2  
Court exhibits 1, 2, 3, marked for ID: photocopies of photographs  
Recess: 4:29 p.m.

04/19/2005 DE 1

Stipulation and Order Permitting the Unsealing and Copying  
of Subpoenaed Phone Records FILED

04/26/2005 DE 1

SUBPOENAED RECORDS FROM SONOMA COUNTY M.A.D.F.

MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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05/24/2005 DE 1

Order for Appointment of Investigator Chris Reynolds and  
Approval for Defense Fees

05/25/2005 DE 1

SUBPOENED RECORDS REC-SONICNET

05/31/2005 DE 1 Courtroom Minutes of Department 2

HON: C. WONG DDA: Anne Masterson REP: TERI HOSMER CLK: JT1  
Defendant present in custody  
Defense Counsel J. Nick not present  
Proceedings further stayed pending appeal  
No further court dates set per Judge Wong

08/12/2005 DE 1

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF MANDATE AND/OR  
PROHIBITION RECD

08/18/2005 DE 1

CONTINUED TO - 09/16/2005 at 8:30am 2, FURTHER PROCEEDINGS, AT  
ATTORNEY'S REQUEST

08/23/2005 DE 1

CONTINUED TO - 08/24/2005 at 8:30am 2, FURTHER PROCEEDINGS, AT D.A.  
REQUEST

08/24/2005 DE 1 Courtroom Minutes of Department 2

HON: C. WONG DDA: Christine M Cook REP: SHELLY BERG CLK: JT1  
Defendant present in custody  
Defense Counsel J David Nick not present  
Court orders def be allowed 2 phone cals to contact Counsel  
CONTINUED TO - 08/25/2005 at 8:30am 2, APPEARANCE OF COUNSEL,  
FURTHER PROCEEDINGS

08/25/2005 DE 1 Courtroom Minutes of Department 2

HON: C. WONG DDA: LARRY J. SCOUFOS REP: TERI HOSMER CLK: KKK  
Defendant present in custody  
Defense Counsel J David Nick appearing  
Court orders 2 phone calls for defendant to contact counsel  
CONTINUED TO - 08/26/2005 at 8:30am 2, FOR COUNSEL, FURTHER  
PROCEEDINGS

MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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08/26/2005 DE 1 Courtroom Minutes of Department 2

HON: C. WONG DDA: Larry J. Scoufos REP: TERI HOSMER CLK: KA  
Defendant present in custody  
Defense Counsel J David Nick not present  
Stipulation between Attorney David Nick and Chief DDA Christine Cook  
regarding clarification of items for court record and order  
confirming stipulation filed.  
Defendant waives time to 09-16-2005 for prelim.  
CONTINUED TO - 09/16/2005 at 8:30am 2, FURTHER PROCEEDINGS, AT  
ATTORNEY'S REQUEST, TO SET

08/26/2005 DE 1  
Media Request Filed (Granted) (Channel 50)

09/16/2005 DE 1 Courtroom Minutes of Department 2

HON: C. WONG DDA: Christine M Cook REP: SHELLY BERG CLK: KLK  
Defendant present in custody  
Defense Counsel J David Nick appearing  
Defendant waives right to continuous preliminary hearing  
Defendant Waived Time for Preliminary Hearing, including 10 day  
rule  
Defendant Waived Time for Preliminary Hearing, including 60 day  
rule  
Preliminary Examination set - 11/17/2005 at 9:30am 2, PRELIMINARY,  
SPECIAL SET  
Time estimate 5 days

09/21/2005 DE 1  
REC'D: "PETITION FOR REVIEW--..DENIAL OF PET'S WRIT OF HAB CORP"

09/26/2005 DE 1  
Media Request Filed (Denied) (Channel 50)

10/27/2005 DE 1  
DECLARATION IN SUPPORT OF ORDER FOR TEMPORARY REMOVAL OF PRISONER  
AND HIS PRODUCTION AS A WITNESS: JAMES LARRY LEWIS JR FILED  
ORDER FOR TEMPORARY REMOVAL OF PRISONER AND HIS PRODUCTION AS A  
WITNESS: JAMES LARRY LEWIS JR.

11/02/2005 DE 1  
CONTINUED TO - 11/08/2005 at 8:30am 2, MOTION, CONTINUE, AT D.A.  
REQUEST

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11/08/2005 DE 1 Courtroom Minutes of Department 2

HON: C. WONG DDA: Christine M Cook REP: TERI HOSMER CLK: JT1  
Defendant present in custody  
Defense Counsel J. Nick appearing  
Defense counsel files notice of Motion & Motion to Continue prelim.  
hearing  
Defendant waived time for Preliminary Hearing  
Preliminary Examination set - 01/23/2006 at 9:30am 2, PRELIMINARY  
Vacated - 11/17/2005 at 9:30am 2  
1050 PC Motion Granted  
No objection by people

11/10/2005 DE 1

SUPBOENED RECORDS FROM WESTAMERICA BANK

11/15/2005 DE 1

Order for the Disbursement of Supplemental Funds to Defense  
Expert Gregg Stutchman and Order for Future Funds Filed

11/22/2005 DE 1

Order on Media Request filed is Denied Channel 50 News

11/29/2005 DE 1

DEF'S NOTICE OF MOTION AND MOTION TO RECONSIDER DEF'S NONSTATUTORY  
MOTION TO DISMISS BASED UPON PREVIOUSLY UNDISCLOSED EVIDENCE FILED  
DEFENDANT'S MOTION TO STRIKE DISQUALIFICATION OF JUDGE BALLINGER AS  
UNTIMELY PURSUANT TO 170.4(B) & 170.6(A)(2) CCP FILED

11/30/2005 DE 1

CONTINUED TO - 12/14/2005 at 2:30pm 2, TO STRIKE, MOTION, AT  
ATTORNEY'S REQUEST

12/14/2005 DE 1 Courtroom Minutes of Department 2

HON: C. WONG DDA: Rafael E. Donnelly REP: SHELLY BERG CLK: JT1  
File in dept 2  
Defendant present in custody  
Defense Counsel J David Nick appearing  
CONTINUED TO - 01/17/2006 at 8:30am 2, FURTHER PROCEEDINGS

12/16/2005 DE 1

NOTICE OF PEOPLE'S MOTION AND PEOPLE'S MOTION TO CONTINUE FILED  
CONTINUED TO - 01/17/2006 at 8:30am 2, FURTHER PROCEEDINGS, MOTION,  
CONTINUE

MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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01/12/2006 DE 1

AMENDED PROOF OF SERVICE FOR PEOPLE'S MOTION TO CONTINUE; DEC IN  
SUPPORT AND P&A'S IN SUPPORT OF MOTION TO CONTINUE FILED  
PEOPLE'S OPPOSITION TO DEFENDANT'S MOTION TO STRIKE  
DISQUALIFICATION OF JUDGE BALLINGER AS UNTIMELY PURSUANT TO  
170.6(A)(2) FILED  
People's opp. def's motion to reconsider DEF'S NON-STATUTORY MOTION  
TO DISMISS BASED UPON PREVIOUSLY UNDISCLOSED EVIDENCE FILED

01/17/2006 DE 1 Courtroom Minutes of Department 2

HON: C. WONG DDA: Christine M Cook REP: TERI HOSMER CLK: KDH  
Judge Wong has file  
Pass to 10:00 am  
Defendant present in custody  
Defense Counsel J Nick appearing  
Upon conclusion of argument by Counsel, Court denied 170.6 PC and  
and court denies motion to strike  
Bail remains as set  
People (CMC) in trial in another courtroom  
Preliminary Examination set - 01/23/2006 at 9:30am 2, PRELIMINARY  
Court indicates motion for reconsideration needs to be heard  
by Judge Ballinger.  
Court will allow motion to be filed in old case SCR-32528. Motion  
paperwork to be moved to SCR-32528 from MCR-443363  
People's request time to respond to motion being moved to  
SCR-32528. Court will sign any orders shortening time.  
CONTINUED TO - 01/20/2006 at 8:30am 14, FOR REFERENCE  
1050 PC Motion Denied - People's  
Def responds, Crt comments, Peo argue.

01/18/2006 DE 1

Defendant's Reply to People's Opposition to Motion to  
Reconsider Defendant's Motion to Dismiss FILED

01/19/2006 DE 1

POINTS AND AUTHORITIES IN SUPPORT OF PEOPLE'S MOTION TO CONTINUE  
FILED  
DECLARATION IN SUPPORT OF PEOPLE'S MOTION FOR CONTINUANCE FILED

01/20/2006 DE 1 Courtroom Minutes of Department 14

HON: R. BALLINGER DDA: Christine M Cook REP: C A Martinez CLK: LA  
Defendant present in custody  
Defense Counsel J David Nick appearing  
CONTINUED TO - 01/24/2006 at 8:30am 14, FOR REFERENCE

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01/23/2006 DE 1 Courtroom Minutes of Department 2

HON: C. WONG DDA: \Carla L Claeys REP: E POPOVICH CLK: JT1  
NO FILE  
Defendant present in custody  
Defense Counsel J David Nick appearing  
Defendant Waived Time for Preliminary Hearing, including 10 day  
rule  
Preliminary Examination set - 04/17/2006 at 9:30am 2, PRELIMINARY,  
SPECIAL SET  
Time estimate 12 days  
People's 1050 PC Motion Granted - good cause shown

01/24/2006 DE 1 Courtroom Minutes of Department 14

HON: R.BALLINGER DDA: Christine M Cook REP: C A Martinez CLK: LA  
Defendant present in custody  
Defense Counsel J David Nick appearing  
Preliminary Examination set - 04/17/2006 at 9:30am 2, PRELIMINARY,  
SPECIAL SET  
Time estimate 12 days  
CONTINUED TO - 01/25/2006 at 8:30am 2, FURTHER PROCEEDINGS

01/24/2006 DE 1

Defense Applic. to Seal Pitchess Dec and Exhibits Dec in  
Support thereof Filed  
Notice to Set Re: Pitchess Motion and Pitchess Motion Filed

01/25/2006 DE 1 Courtroom Minutes of Department 2

HON: C. WONG DDA: Christine M Cook REP: SHELLY BERG CLK: JT1  
File in Dept 2  
Defendant present in custody  
Defense Counsel J David Nick appearing  
Ann Keck, Co Counsel present  
People submit documentation to Court, which is sealed  
Preliminary Examination set - 03/27/2006 at 9:30am 2, PRELIMINARY,  
SPECIAL SET  
Vacated - 04/17/2006 at 9:30am 2  
Defense Counsel ordered to appear 03-27-2006  
to Seal Pitchess Motion Set - 02/15/2006 at 2:30pm 2, PITCHESS  
MOTION

MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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01/26/2006 DE 1

Defense Notice of Motion and Motion to Traverse, Quash  
Warrant and Suppress Evidence Filed  
Defense Exhibits Lodged in Support of Mot. to Traverse,  
Quash Warrant and Suppress Evidence Filed  
Defense Memorandum of Law in Support of Motion for  
Discovery of Police Report Received

01/31/2006 DE 1

Defense Memo of Law in Support of Motion for Discovery  
of Police Report Filed

02/06/2006 DE 1

REPORTER'S TRANSCRIPT FILED -OF PROCEEDINGS 01/23/06

02/14/2006 DE 1

Order on Media Request filed is Denied Channel 50 - For 3/27/06  
Hearing

02/15/2006 DE 1 Courtroom Minutes of Department 2

HON: F PASSALACQUA DDA: Daniel H. Carr REP: SHELLY BERG CLK: JT1  
Defendant present in custody  
Defense Counsel J. Nick appearing  
County Counsel Mark Bartholomew present  
Preliminary Examination set - 03/27/2006 at 9:30am 2, PRELIMINARY,  
SPECIAL SET  
Pitchess Mtn & Motion to seal reSet - 02/22/2006 at 2:30pm 2,  
PITCHESS MOTION

02/16/2006 DE 1

CONTINUED TO - 02/24/2006 at 8:30am 2, HEARING RE: RESTITUTION, AT  
ATTORNEY'S REQUEST

02/22/2006 DE 1 Courtroom Minutes of Department 2

HON: C. WONG DDA: Christine M Cook REP: SHELLY BERG CLK: BW  
JUDGE HAS FILE  
Defendant present in custody  
Defense Counsel J. Nick not present. R. Scott appearing  
County Counsel Anne Keck present.  
Preliminary Examination set - 03/27/2006 at 9:30am 2, PRELIMINARY,  
SPECIAL SET  
Pitchess Motion dropped per Court without prejudice.



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02/24/2006 DE 1

REC'D COPY OF: PETITION FOR WRIT OF PROHIBITION/MANDATE W/ EXHIBITS  
AND MEMO OF POINTS & AUTHORITIES FROM D.C.A.

02/24/2006 DE 1 Courtroom Minutes of Department 2

HON: C. WONG DDA: Robert M. LaForge REP: M K Hentz CLK: JT1  
File with Judge Wong  
Defendant present in custody  
Defense Counsel J David Nick appearing  
Pitchess motion deemed refiled  
Preliminary Examination set - 03/27/2006 at 9:30am 2, PRELIMINARY,  
SPECIAL SET  
Pitchess Motion Set - 03/08/2006 at 2:30pm 2, PITCHESS MOTION

02/24/2006 DE 1

SENT JUDGE BALLINGER-#14 DCA COPIES OF PETITION FOR WRIT OF PROHIB.  
MANDATE., AND EXHIBITS IN SUPPORT OF...  
PETITION FOR WRIT OF PROHIBITION/MANDATE IS DENIED. COPY REC'D FROM  
D.C.A.

03/08/2006 DE 1 Courtroom Minutes of Department 2

HON: C. WONG DDA: SPENCER R. BRADY REP: SHELLY BERG CLK: JT1  
File in Dept 2  
Defendant present in custody  
Defense Counsel J David Nick appearing  
A.Keck, County Counsel appearing  
Defense argues  
County Counsel argues  
Court denies motion to seal declaration in Pitchess Motion  
Preliminary Examination set - 03/27/2006 at 9:30am 2, PRELIMINARY,  
SPECIAL SET  
CONTINUED TO - 03/10/2006 at 9:00am 2, DISCOVERY MOTION, SPECIAL SET  
Motion to Disclose Police Report  
Pitchess Motion Set - 04/04/2006 at 9:00am 2, PITCHESS MOTION,  
SPECIAL SET

03/10/2006 DE 1 Courtroom Minutes of Department 2

HON: C. WONG DDA: SPENCER R. BRADY REP: TERI HOSMER CLK: JT1  
No File  
Defendant present in custody  
Defense Counsel J David Nick appearing  
Defense Counsel files: "Declaration of Counsel in Support of  
Pitchess" - and is ordered sealed - People object to sealing  
Parties discuss legal issues  
Vacated - 04/04/2006 at 9:00am 2

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03/10/2006 DE 1 Courtroom Minutes of Department 2 (continued)  
Preliminary Examination set - 03/27/2006 at 9:30am 2, PRELIMINARY,  
SPECIAL SET  
Pitchess Motion Set - 03/30/2006 at 9:30am 2, PITCHESS MOTION,  
SPECIAL SET

03/13/2006 DE 1  
CONTINUED TO 1 - 04/04/2006 at 9:30am 2, MOTION, AT ATTORNEY'S  
REQUEST  
DROPPED FROM CALENDAR - 03/30/2006 at 9:30am 2

03/21/2006 DE 1  
PEOPLE'S OPPOSITION TO DEFENDANT'S MOTION TO TRAVERSE, QUASH  
WARRANT AND SUPPRESS EVIDENCE UNDER PC 1538.5 AND FOURTH AMENDMENT

03/23/2006 DE 1  
Defense Notice of Motion and Motion for Discovery of the  
Police Report Re Detective Davidson's Arrest FILED  
Defense Motion in Limine Supporting Ps and As and Decl.  
of Counsel RECEIVED  
Defense Notice of Motion and Motion to Compel Admonishment  
to Witness RECEIVED

03/24/2006 DE 1  
Supplement to Defendant's Notice of Motion and Motion for  
Discovery of Police Report Re: Det. Davidson FILED  
Defense Not of Motion and Motion to Bar James Lewis and  
Tyson McClaim from testifying at Prelim RECEIVED  
PEOPLE'S MEMORANDUM OF LAW IN OPPOSITION TO MOTION FOR DISCOVERY OF  
POLICE REPORT REGARDING DRIVING UNDER THE INFLUENCE ARREST OF  
RUSSEL

03/27/2006 DE 1  
Defense Memo of Law and Request for the Magistrate to Make  
Explicit Factual Findings Received

03/27/2006 DE 1 - Courtroom Minutes of Department 2

HON: C. WONG DDA: Christine M Cook REP: SHELLY BERG CLK: JT1  
Transferred to Dept 3 forthwith  
Hon. D. A. Beaupre  
DDA: D. Carr/C. Cook  
Reporter: B. Hart  
Clerk: K. Krell  
Defendant present in custody  
Defense Counsel J. David Nick appearing  
In Chambers discussion held  
Court will allow two defense investigators to be present during

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03/27/2006 DE 1 Courtroom Minutes of Department 2 (continued)

hearing

To 2:30 p.m. for preliminary hearing

Case heard 2:36 p.m.

Defense files notice of motion and motion to compel discovery of all Giglio and Brady material and notice of motion and motion for discovery of investigation reports pertaining to the disappearance of Geoff Adair; declaration of counsel

Motion to exclude witnesses granted

People declare Det. Brad Burke as Investigating Officer.

People have premarked exhibits 1 through 108 and provide list of same

People call Det. Jerry Robinson, sworn and testifies.

Witness identifies people's exhibits 1-22; 25-27; 30-33; 28-29; 35-36; 38-41; 44-45; 48; 47; 46; 49-52

Recess: 3:23 p.m.

Reconvene: 3:36 p.m.; All Parties present

Witness Det. Robinson resumes stand under direct examination

Witness identifies people's exhibits 53-54; 56-58; 60-76; 78; 80-81; 24; 34; 37; 42-43; 55; 59; 77; 79;

Defendant personally waives right to continuous hearing

Case continued to 3/28/06 1:30 p.m. for continued preliminary hearing

Recess: 4:24 p.m.

CONTINUED TO - 03/28/2006 at 1:30pm 3, CONTINUED, PRELIMINARY

Preliminary Examination held

03/28/2006 DE 1 Courtroom Minutes of Department 3

HON: Dean A. Beaupre DDA: Daniel H. Carr REP: Barrie Hart CLK: KKK

Defendant present in custody

Defense Counsel J. David Nick appearing

Case continued at 1:52 p.m. - all parties present

Witness Det. Robinson resumes the stand

People re-open direct examination

Witness identifies people's exhibit 23

Cross examination

Defense exhibit(s) marked for identification: A-8x10 photo; B-blown up version of A; C-photo;

Defense's exhibit(s) A-C received into evidence

Defense exhibit(s) marked for identification: D-8x10 photo; E-photo; F-photo; G-8x10 photo; H-8x10 photo; I-photo; J-photo

Recess: 2:55 p.m.

Reconvene: 3:12 p.m.; All Parties present

Cross examination resumes

Redirect

Recross

Re-redirect

MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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03/28/2006 DE 1 Courtroom Minutes of Department 3 (continued)

All People's exhibits received into evidence reserving defense objection to 80 and 81  
Defense's exhibit(s) F-J received into evidence  
Witness excused  
People call Det. Brad Burke, sworn and testifies.  
Witness identifies People's exhibits 83-88; 92-94  
Cross examination  
Defense exhibit(s) marked for identification: K-photo  
Defense exhibit(s) marked for identification: L-abstract of judgment  
Court takes judicial notice of Defense L  
Defense's exhibit(s) L received into evidence  
Witness steps down  
Case continued to 3/29/06 9:30 a.m. Courtroom 3 for continued hearing  
Recess: 4:32 p.m.  
CONTINUED TO - 03/29/2006 at 9:30am 3, CONTINUED, PRELIMINARY

03/28/2006 DE 1

Declaration of J. David Nick in Support of Applic. for Further Funds for Chris Reynolds Investigations Received  
Order for Disbursement of Further Funds for Defense Investigator Chris Reynolds for an Indigent Def. FILED

03/29/2006 DE 1 Courtroom Minutes of Department 3

HON: Dean A. Beaupre DDA: Daniel H. Carr REP: Barrie Hart CLK: KLK  
Defendant present in custody  
Defense Counsel J. David Nick appearing  
Case continued 10:49 a.m. - all parties present  
People call Sgt. Steve Brown, sworn and testifies.  
Witness identifies people's exhibits 109,110  
Witness identifies Defendant(s).  
Cross examination  
Defense exhibit(s) marked for identification: M- article containing photo of SKS rifle  
Witness excused, subject to recall  
People call Investigator Kristin Allen, sworn and testifies.  
Witness identifies Defendant(s).  
Witness identifies people's exhibit 111  
Cross examination  
Defense exhibit(s) marked for identification: N- aerial photo  
Redirect  
Witness excused  
People's exhibit(s) 109-110 received into evidence.  
People call Investigator Tony Gillotte, sworn and testifies.  
Cross examination  
Witness excused

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03/29/2006 DE 1 Courtroom Minutes of Department 3 (continued)

Recess: 11:57 a.m.

Reconvene: 2:26 p.m.; All Parties present

Court and counsel discuss and argue defense motions

Court rules on the record

Case continued to 3/30/06 10:30 a.m. Courtroom 3 for continued preliminary hearing

CONTINUED TO - 03/30/2006 at 10:30am 3, CONTINUED, PRELIMINARY

03/30/2006 DE 1 Courtroom Minutes of Department 3

HON: Dean A. Beaupre DDA: Daniel H. Carr REP: Barrie Hart CLK: KLK

Defendant present in custody

Defense Counsel J. David Nick appearing

Case continued at 11:17 a.m. - all parties present

Defense moves for court to review conditional exam of witness McMahon

Court indicates it will admit the conditional exam

Deputy District Attorney C. Cook conducts questioning of next two witnesses

People call Daniel Hemenway, sworn and testifies.

Witness identifies Defendant(s).

People's exhibit marked for identification: 112 - transcript of statement

Cross examination

Witness admonished and ordered to return at 1:45 p.m.

Recess: 12:08 p.m.

Reconvene: 1:55 p.m.; All Parties present

Witness Hemenway resumes the stand under cross examination

Defense exhibit(s) marked for identification: O - 8x10 photo

Recess: 2:53 p.m.

Reconvene: 3:09 p.m.; All Parties present

Witness resumes the stand under cross examination

Defense exhibit(s) marked for identification: P, Q - transcripts

Witness excused, subject to recall

People's exhibit marked for identification: 113 - docket

Defense's exhibit O received into evidence

People call Sean Gee, sworn and testifies.

Witness identifies Defendant(s).

People's exhibit marked for identification: 114 - transcript

People's exhibit marked for identification: 115 - transcript

Witness excused to 4/3 at 10:00 a.m.

People's exhibit(s) 82-92, 111 received into evidence.

Recess: 4:24 p.m.

CONTINUED TO - 04/03/2006 at 10:00am 3, CONTINUED, PRELIMINARY

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04/03/2006 DE 1 Courtroom Minutes of Department 3

HON: Dean A. Beaupre DDA: Christine M Cook REP: S. HARDGROVE CLK: TH  
CONTINUING PRELIMINARY HEARING

At 10:32 am the Court reconvenes, pursuant to the adjournment of  
March 30, 2006.

Defendant is present in custody.

Defense counsel, J. David Nick is present.

Defense counsel, Michael Linscheid is present.

Legal issues addressed on the record regarding proposed coverage by  
channel 50.

SEAN GEE having previously been administered the oath, resumes the  
stand and further testifies.

Further direct examination conducted by Ms. Cook.

The following PEOPLE'S EXHIBITS are marked for identification:

#116 - 3x5 COLOR PHOTOGRAPH DEPICTING A KNIFE WITH RULER

#117 - 3x5 COLOR PHOTOGRAPH DEPICTING A KNIFE

#118 - 3x5 COLOR PHOTOGRAPH DEPICTING A KNIFE

#119 - 3x5 COLOR PHOTOGRAPH DEPICTING A KNIFE

#120 - 3x5 COLOR PHOTOGRAPH DEPICTING A KNIFE WITH RULER

#121 - 4 page copy of memo to David Nick from Chris Reynolds dated  
3-31-06

At 10:53 am the Court declares a brief recess.

At 11:02 am the Court reconvenes.

All parties are once again present.

SEAN GEE having previously been administered the oath, resumes the  
stand and further testifies.

Cross-examination conducted by Mr. Nick.

The following DEFENDANT'S EXHIBIT is marked for identification:

R - 1 PAGE COPY OF E-MAIL DATED 2-20-04 TO CHRIS REYNOLDS TO SEAN  
GEE

Redirect-examination conducted by Ms. Cook.

The following PEOPLE'S EXHIBITS are marked for identification:

#122 - 36 PAGE COPY OF INTERVIEW WITH SEAN GEE BY CHRIS REYNOLDS  
DATED 2-8-04

#123 - 2 PAGE COPY OF MEMO TO DAVID NICK FROM CHRIS REYNOLD DATED  
2-19-04

#124 - 3 PAGE COPY OF SONOMA COUNTY SHERIFF'S DEPARTMENT NARRATIVE/  
STATEMENT DATED 2-19-04 (SUPPLEMENTAL #14)

Recross-examination conducted by Mr. Nick.

The witness it thanked and excused subject to recall.

At 11:47 am the Court declares a recess until 1:30 pm this date.

At 1:38 pm the Court reconvenes.

Chief District attorney Christine Cook is not present.

All other parties are once again present.

JOHN DOUGLAS YOUNT is administered the oath and testifies on behalf  
of the People.

Stipulation announced on the record, for preliminary purposes, as



MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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04/03/2006 DE 1 Courtroom Minutes of Department 3 (continued)

to the criminal's expertise.

Direct-examination conducted by Mr. Carr.

Cross-examination is conducted by

Re-direct-examination conducted by Mr. Carr.

Re-cross-examination is conducted by Michael Linscheid

The witness is thanked and excused.

At 2:42 pm the Court declares a brief recess.

At 2:51 pm the Court reconvenes.

All parties are once again present.

RUSSELL DAVIDSON is administered the oath and testifies on behalf of the People.

Direct-examination conducted by Mr. Carr.

The witness identifies the Defendant.

At 3:11 pm the Court declares a recess until 10:30 am on APRIL 4, 2006 in Courtroom #3 for further Preliminary Hearing.

CONTINUED TO - 04/04/2006 at 10:30am 3, PRELIMINARY

04/03/2006 DE 1

DROPPED FROM CALENDAR - 04/04/2006 at 9:30am 2

CONTINUED TO - 04/04/2006 at 9:30am 3, MOTION, AT ATTORNEY'S REQUEST

04/04/2006 DE 1 Courtroom Minutes of Department 3

HON: Dean A. Beaupre REP: S. HARDGROVE CLK: TH  
PITCHESS MOTION

Deputy District Attorney Daniel Carr present.

Deputy County Counsel Ann Keck present.

Defense counsel, J. David Nick present.

Defendant present in custody.

The Court will not allow the Discovery of the reports.

The Court will conduct an In-Camera review on Friday April 7, 2006 at 10:00 am. Defendant nor Defense counsel need not be present for this proceeding.

04/04/2006 DE 1 Courtroom Minutes of Department 3

HON: Dean A. Beaupre REP: S. HARDGROVE CLK: TH  
CONTINUING PRELIMINARY HEARING

At 10:36 am the Court reconvenes, pursuant to the adjournment of April 3, 2006.

Chief District Attorney Christine Cook is not present.

Deputy District Attorney Daniel Carr present.

Defense counsel, J. David Nick is present.

Defense counsel, Michael Linscheid is not present.

Defendant is present in custody.

RUSSELL DAVIDSON having previously been administered the oath, resumes the stand and further testifies.

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04/04/2006 DE 1 Courtroom Minutes of Department 3 (continued)

Further Direct-examination conducted by Mr. Carr.

The following PEOPLE'S EXHIBIT is marked for identification:

#125 - CASSETTE TAPE OF INTERVIEW WITH SEAN GEE ON 1-14-04

Parties stipulate that the court reporter need not transcribe the playing of People's Exhibit #125.

Cross-examination conducted by Mr. Nick.

At 11:53 am the witness is excused until 1:30 pm this date.

Legal issues addressed on the record regarding People's request of Discovery.

At 11:55 am the Court stands in recess until 1:30 pm this date.

At 1:35 pm the Court reconvenes.

All parties are once again present.

Defense counsel, Michael Linscheid is now present.

RUSSELL DAVIDSON having previously been administered the oath, resumes the stand and further testifies.

Further Cross-examination conducted by Mr. Nick.

At 1:42 pm the Court declares a brief recess.

At 1:43 pm the Court reconvenes.

All parties are once again present.

RUSSELL DAVIDSON having previously been administered the oath, resumes the stand and further testifies.

Further Cross-examination conducted by Mr. Nick.

The following DEFENDANT'S EXHIBIT is marked for identification:

S - 1 PAGE COPY OF U.S. NAVAL OBSERVATORY ASTRONOMICAL APPLICATIONS  
DEPARTMENT - SUN AND MOON DATA FOR ONE DAY

At 1:55 pm the Court declares a brief recess.

At 2:00 pm the Court reconvenes.

All parties are once again present.

RUSSELL DAVIDSON having previously been administered the oath, resumes the stand and further testifies.

Further Cross-examination conducted by Mr. Nick.

At 3:02 pm the Court stands in recess for the evening.

CONTINUED TO - 04/05/2006 at 10:00am 3, PRELIMINARY

04/05/2006 DE 1 Courtroom Minutes of Department 3

HON: Dean A. Beaupre DDA: Daniel H. Carr REP: S. HARDGROVE CLK: KKK  
Defendant present in custody

Defense Counsel J. David Nick appearing

Defense Counsel M. Linscheid appearing

PRELIMINARY HEARING continues at 10:25 a.m.

Witness Russell Davidson resumes the stand under cross examination

Clerk change at 10:58 a.m. to B. Wesson

Defense exhibit(s) T, marked for identification: one page document -  
copy of minute order from Calaveras County

Defense exhibit(s) U, marked for identification: JUS 8715 of McLain,  
Tyson



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04/05/2006 DE 1 Courtroom Minutes of Department 3 (continued)

At 11:58 a.m., Court declares recess until 1:30 p.m.

Defense's exhibit(s) T, U received into evidence

Reconvene: 1:37 p.m.; All Parties present

Clerk K. Krell

Witness Russell Davidson resumes the stand under cross examination

Defense exhibit(s) V, marked for identification: Order of summary probation - Mendocino County

Defense's exhibit(s) V received into evidence

Recess: 2:56 p.m.

Reconvene: 3:17 p.m.; All Parties present

Witness Davidson resumes the stand under cross examination

Defense exhibit(s) W, marked for identification: binder containing documents previously subpoenaed August 2003

Defense's exhibit(s) W received into evidence

Defense exhibit(s) X1, X2, marked for identification: page 62 and page 63 from transcript

Defense's exhibit(s) X1, X2 received into evidence

Witness excused, subject to recall

People's exhibit(s) received into evidence: 80-81; 93-104; 106-108; 112-114; 116-120; 125

People withdraw exhibits 105; 115; 121-124

People rest

Defense exhibit(s) Y, marked for identification: certified copy of conviction re: Hemenway

Defense exhibit(s) Z, marked for identification: copy of letter

Defense's exhibit(s) Y,Z received into evidence

Defense calls Ed Svetlik, sworn and testifies

Witness identifies Defendant(s).

Cross examination

At 4:44 p.m., case continued to April 6, 2006 at 9:30 a.m., whereby Court adjourns

CONTINUED TO - 04/06/2006 at 9:30am 3, CONTINUED, PRELIMINARY

04/06/2006 DE 1 Courtroom Minutes of Department 3

HON: Dean A. Beaupre DDA: Daniel H. Carr REP: S. HARDGROVE CLK: KLK

Defendant present in custody

Defense Counsel J. David Nick appearing

Defense Counsel M. Linscheid appearing

At 9:45 a.m., Court reconvenes pursuant to adjournment of April 5, 2006

Witness Ed Svetlik resumes the stand under cross examination

Court takes notice of stipulation as to original date of defendant's arraignment

Redirect

Recross

Witness excused, subject to recall

MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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04/06/2006 DE 1 Courtroom Minutes of Department 3 (continued)

Defense calls Danny Fair, sworn and testifies

Witness identifies Defendant(s).

Cross examination

Witness excused, subject to recall

Defense calls Mitchell Marovich, sworn and testifies

Witness identifies Defendant(s).

Defense exhibit(s) AA, marked for identification: set of oernuts and documents from PRMD

Defense's exhibit(s) AA received into evidence

Cross examination

Redirect

Recross

Witness excused, subject to recall

Defense calls Marty Marovich, sworn and testifies

Cross examination

Recess: 11:12 a.m.

Reconvene: 11:27 a.m.; All Parties present

Witness Marty Marovich resumes the stand

Redirect

Court questions witness

Further follow-up questioning by counsel Carr

Further follow-up questioning by counsel Nick

Witness excused

Defense calls Flora Greve, sworn and testifies

Witness identifies Defendant(s).

Cross examination

Redirect

Recross

Re-redirect

Witness excused

Recess: 12:03 p.m.

Reconvene: 1:34 P.M.; All Parties present

Defense calls Joyce Svetlik, sworn and testifies

Cross examination

Redirect

Recross

Re-redirect

Re-recross

Further questioning by counsel Nick

Witness excused

Court and counsel discuss legal issues

At 2:31 p.m., case continued to 4-10-06 10:30 a.m. for continued preliminary, whereby Court adjourns

CONTINUED TO - 04/10/2006 at 10:30am 3, CONTINUED, PRELIMINARY

MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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04/10/2006 DE 1 Courtroom Minutes of Department 3

HON: Dean A. Beaupre DDA: Daniel H. Carr REP: S. HARDGROVE CLK: TH  
CONTINUING PRELIMINARY HEARING

At 10:32 am the Court reconvenes, pursuant to the adjournment of  
April 5, 2006.

Defendant is present in custody.

Defense counsel, J. David Nick is present.

Defense counsel, Michael Linscheid is present.

RONALD SVETLIK is administered the oath and testifies on behalf of  
the Defendant.

Direct-examination conducted by Mr. Nick.

Cross-examination conducted by Mr. Carr.

At 12:00 pm the court declares a recess until 1:30 pm this date.

At 1:37 pm the Court reconvenes.

All parties are once again present.

RONALD SVETLIK having previously been administered the oath, resumes  
the stand and further testifies.

Further Cross-examination conducted by Mr. Carr.

Redirect-examination conducted by Mr. Nick.

Recross-examination conducted by Mr. Carr.

The witness is thanked and excused subject to recall.

JEANNIE BRANDON is administered the oath and testifies on behalf of  
the Defendant.

Direct-examination conducted by Mr. Nick.

The following DEFENDANT'S EXHIBITS are marked for identification:

BB - COPIES OF TRANSCRIPT OF INTERVIEWS WITH TYSON MCLAIN

CC - VIDEO CASSETTE TAPE OF INTERVIEW WITH TYSON MCLAIN

DD - TRANSCRIPT OF INTERVIEW WITH TYSON MCLAIN DATED 1/12/03 PAGES  
1-80

At 2:58 pm the Court declares a brief recess.

At 3:14 pm the Court reconvenes.

All parties are once again present.

JEANNIE BRANDON having previously been administered the oath,  
resumes the stand and further testifies.

Further Direct-examination conducted by Mr. Nick.

Mr. Nick offers Defendant's Exhibit BB in evidence.

Mr. Carr presents argument.

At 3:50 pm the Court declares a brief recess.

At 3:53 pm the Court reconvenes.

All parties are once again present.

JEANNIE BRANDON having previously been administered the oath,  
resumes the stand and further testifies.

Further Direct-examination conducted by Mr. Nick.

The witness is thanked and excused subject to recall.

EZEKIEL RUTLEDGE is administered the oath and testifies on behalf of  
the Defendant.

Direct-examination conducted by Mr. Nick.

MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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04/10/2006 DE 1 Courtroom Minutes of Department 3 (continued)

The witness is instructed to return at 1:30 pm on APRIL 12, 2006 in Courtroom #7

At 5:00 pm the stands adjourned for the evening.

CONTINUED TO - 04/12/2006 at 1:30pm 7, PRELIMINARY

04/12/2006 DE 1 Courtroom Minutes of Department 7

HON: Dean A. Beaupre DDA: Daniel H. Carr REP: S STANDISH CLK: KLK  
At 1:43 p.m., Court reconvenes pursuant to adjournment of April 10, 2006

Defendant present in custody

Defense Counsel J. David Nick appearing

Defense Counsel M. Linscheid appearing

Witness Ezekiel Rutledge, previously sworn, resumes the stand under direct examination

Cross examination

Witness excused, subject to recall

Defense calls Tom Johnson, sworn and testifies

Cross examination

Witness excused, subject to recall

Defense calls Patti Davis, sworn and testifies

Cross examination

Redirect

Defense moves to have witness Becker's testimony from previous preliminary transcript admitted

Recess: 2:48 p.m.

Reconvene: 3:06 p.m.; All Parties present

Witness Davis resumes the stand under direct examination

Defense exhibit(s) EE, marked for identification: box containing register receipt rolls

Witness excused, subject to recall

Defense exhibit(s) FF, marked for identification: pages 66-67 of testimony of Deborah Becker from 2002 transcript

Defense's exhibit(s) FF received into evidence

Defense calls Gail Gugino, sworn and testifies

Cross examination

Witness excused

Defense calls Kristin Allen, sworn and testifies

Witness excused

Defense exhibit(s) GG, marked for identification: transcript

Defense calls Chris Reynolds, sworn and testifies

Stipulate reporter need not transcribe while CD is playing

People voir dire of witness

Witness steps down

Court indicates no discoverable evidence from in camera hearing of Russell Davidson's personnel file

MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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04/12/2006 DE 1 Courtroom Minutes of Department 7 (continued)

At 4:49 p.m., case continued to 4-14-06 at 1:30 p.m. in Courtroom 9,  
whereby Court adjourns

CONTINUED TO - 04/14/2006 at 1:30pm 9, CONTINUED, PRELIMINARY

04/14/2006 DE 1 Courtroom Minutes of Department 9

HON: Dean A. Beaupre DDA: Daniel H. Carr REP: M K Hentz CLK: KLK  
At 1:34 p.m. Court reconvenes pursuant to adjournment of April 12,  
2006

Defendant present in custody

Defense Counsel J. David Nick appearing

Defense exhibit(s) GG1, marked for identification: CD

Defense calls Charles Marcum, sworn and testifies

Cross examination

Redirect

Witness excused, subject to recall

Defense calls Ande Thomas, sworn and testifies

Cross examination

Redirect

Witness excused, subject to recall

Defense calls Det. Russell Davidson, previously sworn and testifies

People question witness under rebuttal

Cross examination

Witness excused, subject to recall

Recess: 2:53 p.m.

Reconvene: 3:14 p.m.; All Parties present

Defense recalls Ande Thomas, previously sworn and testifies

Witness excused

Defense calls Tyson McLain, sworn and testifies

Court advises witness of right to counsel and right not to  
self-incriminate

Witness identifies Defendant(s).

At 4:40 p.m., case continued to April 17, 2006 at 9:30 a.m. in  
Courtroom 2, whereby Court adjourns

CONTINUED TO - 04/17/2006 at 9:30am 2, CONTINUED, PRELIMINARY

04/17/2006 DE 1 Courtroom Minutes of Department 2

HON: Dean A. Beaupre DDA: Daniel H. Carr REP: R L Whitney CLK: JT1  
CONTINUING PRELIMINARY HEARING

Defendant present in custody

Defense Counsel J. David Nick appearing

Before Court, Defense files: Memo of Law and Motion to Permit

Defense Counsel to Impeach and or examine Adverse Witnesses through  
leading Questions per Evidence Code 767

At 9:44a.m., Court convenes. All parties present

Parties discuss legal issues

MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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04/17/2006 DE 1 Courtroom Minutes of Department 2 (continued)

Tyson McLain retakes the stand, under direct examination by Mr. Nick  
Defense exhibit HH, marked for identification: Mendocino County  
Court docket for Tyson McLain

Defense's exhibit HH received into evidence

Recess: 10:55a.m.

Reconvene: 11:11a.m.; All Parties present

Mr. McLain retakes the stand under direct examination by Mr. Nick

Recess: 11:58a.m.

Reconvene: 1:34p.m.; All Parties present

Mr. McLain retakes the stand under direct examination by Mr. Nick

Cross examination by Mr. Carr

Redirect by Mr. Nick

Witness excused

Recess: 2:58p.m.

Reconvene: 3:13p.m.; All Parties present

Parties enter into the following stipulations: 1) Greg Adair would  
testify as he did on pages 98-100 on the preliminary hearing  
transcript of the previous preliminary hearing in 2002

2) Greg Adair would testify that he never shot the weapon after

March of 1998 3) Greg Adair would testify he was never aware that  
McLain owned the SKS rifle at any time 4) Nan McLain, the mother

of Tyson McLain, would testify that Tyson told her the Adair's were  
making a deal in this case which involved bringing in a rifle

Above stipulations are as to preliminary hearing purposes only

Recess: 3:18p.m.

CONTINUED TO - 04/21/2006 at 10:00am 1, PRELIMINARY

04/21/2006 DE 1 Courtroom Minutes of Department 1

HON: Dean A. Beaupre DDA: Daniel H. Carr REP: Barrie Hart CLK: KDH  
Judge Wong has file(s)

Defendant present in custody

Defense Counsel J David Nick appearing

Preliminary hearing continues

Recess: 10:04 am

Court and counsel discuss status of exhibits for the record

Motion to Traverse Warrant Held

Court comments

Motion to Traverse Warrant Granted

Defense calls Hon. Raima Ballinger, sworn and testified

Cross examination Raima Ballinger

Witness excused

Defense rests

People rest

People argue

Defense argues

People respond

MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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04/21/2006 DE 1 Courtroom Minutes of Department 1 (continued)

Defendant held to answer Courts 1, 2, & 3 and special  
circumstances in Counts 1 and 2  
Defendant Held to Answer to count I PC 187(a) as charged  
Enhancement to count I PC 12022.53(d) held to answer  
Enhancement to count I PC 190.2(a)(15) held to answer  
Enhancement to count I PC 12022.53(c) held to answer  
Enhancement to count I PC 12022.5(a)(1) held to answer  
Enhancement to count I PC 12022.53(b) held to answer  
Enhancement to count I PC 190.2(a)(3) held to answer  
Defendant Held to Answer to count II PC 187(a) as charged  
Enhancement to count II PC 12022.53(d) held to answer  
Enhancement to count II PC 190.2(a)(15) held to answer  
Enhancement to count II PC 12022.53(c) held to answer  
Enhancement to count II PC 12022.5(a)(1) held to answer  
Enhancement to count II PC 12022.53(b) held to answer  
Enhancement to count II PC 190.2(a)(3) held to answer  
Defendant Held to Answer to count III PC 459 as charged  
Information to be filed - 05/05/2006 at 8:30am 2, INFORMATION TO BE  
FILED  
Exhibits withdrawn, to remain with submitting parties, for  
safekeeping.  
Bail remains as set

04/26/2006 DE 1  
FILE IN DEPT 2

05/02/2006 DE 1  
REPORTER'S TRANSCRIPT FILED -FELONY HEARING 04/12/06

05/03/2006 DE 1  
TRANSCRIPT OF PRELIMINARY EXAMINATION FILED -04/14/06

05/04/2006 DE 1  
TRANSCRIPT OF PRELIMINARY EXAMINATION FILED -VOL. XII (Pages  
1561-1711)

05/05/2006 DE 1 Courtroom Minutes of Department 2

HON: Dean A. Beaupre DDA: Daniel H. Carr REP: TERI HOSMER CLK: JT1  
File in Dept 2  
Defendant present in custody  
Defense Counsel J David Nick appearing  
M.Lindschild present  
J.Berk, County Counsel, present  
INFORMATION FILED  
F PC 187(a) 2 Counts F PC 459  
1st Amended Information filed



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05/05/2006 DE 1 Courtroom Minutes of Department 2 (continued)

Complaint orally amended to allege in Count 2 victim as Jason Blore  
Defendant waives reading of information  
After call of case, defense files Notice of Motion & Motion to  
Set Briefing Schedule for Pretrial & In Limine in Advance of Trial  
Defendant pleads Not Guilty to count I PC 187(a)  
Defendant pleads Not Guilty to count II PC 187(a)  
Defendant pleads Not Guilty to count III PC 459  
Enhancements/Allegations denied  
Fingerprint form filed  
Defendant does not waive time  
Jury Trial Set - 06/22/2006 at 9:30am 2, JURY TRIAL  
CONTINUED TO - 05/19/2006 at 8:30am 2, FURTHER PROCEEDINGS, APPOINT  
COUNSEL, TO SET, PRELIMINARY

05/09/2006 DE 1

TRANSCRIPT OF PRELIMINARY EXAMINATION FILED -03/27/06  
TRANSCRIPT OF PRELIMINARY EXAMINATION FILED -03/28/06 VOL. II Pages  
72-163  
TRANSCRIPT OF PRELIMINARY EXAMINATION FILED -03/29/06 VOL. III  
PAGES 164-246  
TRANSCRIPT OF PRELIMINARY EXAMINATION FILED -03/30/06 VOL. IV PAGES  
247-364  
TRANSCRIPT OF PRELIMINARY EXAMINATION FILED -04/21/06 VOL. XIII  
PAGES 1712-1763

05/15/2006 DE 1

REQUEST TO RE-APPOINT PUBLIC DEFENDER FILED  
DECLARATION OF JEFFREY L. BERK IN SUPPORT OF REQUEST TO REAPPOINT  
PUBLIC DEFENDER FILED  
DECLARATION OF JOHN ABRAHAMS IN SUPPORT OF REQUEST TO REAPPOINT  
PUBLIC DEFENDER FILED  
PEOPLE'S OPPOSITION TO DEFENDANT'S MOTION TO SET A BRIEFING  
SCHEDULE FOR PRETRIAL AND IN LIMINE MOTIONS IN ADVANCE OF TRIAL  
FILED

05/16/2006 DE 1

TRANSCRIPT OF PRELIMINARY EXAMINATION FILED -04/03/06  
TRANSCRIPT OF PRELIMINARY EXAMINATION FILED -04/04/06  
TRANSCRIPT OF PRELIMINARY EXAMINATION FILED -04/05/06  
TRANSCRIPT OF PRELIMINARY EXAMINATION FILED -04/06/06  
TRANSCRIPT OF PRELIMINARY EXAMINATION FILED -04/10/06



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05/19/2006 DE 1 Courtroom Minutes of Department 2

HON: C. WONG DDA: Diana Gomez REP: TERI HOSMER CLK: JT1  
FILE IN DEPT. 2

Defendant present in custody

Defense Counsel J David Nick appearing

C. Andrian appearing on behalf of C. Reynolds. J. Berk, County Counsel, present and argues before the Court. Mr. Nick argues. Court grants County Counsel's Request to reappoint the Public Defender

Mr. Nick states he will now be counsel Pro Bono for Mr. Rutledge and will remain representing Defendant.

Parties discuss investigator bills; Court states it will need briefing regarding the issue.

Court orders that all bills for Chris Reynolds investigative fees prior to today's date be paid by the County of Sonoma.

CONTINUED TO - 05/23/2006 at 1:30pm 2, HEARING

05/23/2006 DE 1

Def's Request for Reconsideration of Appointment of Defense Counsel J. David Nick Received

05/23/2006 DE 1 Courtroom Minutes of Department 2

HON: C. WONG DDA: Diana Gomez REP: Karen Stewart CLK: JT1  
Clerk files: defs request for reconsideration of appt of defense counsel

Defense Counsel J Nick appearing

J Berk, county counsel present

Parties discuss legal issues; County of Sonoma will continue to pay ancillary expenses incurred in this case

Def would be willing to waive time, to trail Easterling in #1

Jury Trial Set - 06/22/2006 at 9:30am 2, JURY TRIAL

CONTINUED TO - 06/01/2006 at 8:30am 1, FURTHER PROCEEDINGS, Filing of motion

Further proceedings pretrial motion, before Judge Daum - to file 995 motion

Court assigns case to Judge Daum

Motion for reconsideration Motion Denied

05/25/2006 DE 1

Order for Payment of Additional Fees of Investigator Filed  
(FEES OF CHRIS REYNOLDS)

MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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06/01/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Karen Stewart CLK: VL  
Defendant present in custody  
Defense Counsel J David Nick appearing  
Defendant waives time to 08-01-2006 plus 30 days  
Jury Trial Set - 08/01/2006 at 9:30am 1, JURY TRIAL  
Pretrial Confirmation Set - 07/21/2006 at 8:30am 1, PRETRIAL  
CONFIRMATION  
Readiness Conference Set - 07/26/2006 at 9:00am 1, READINESS  
CONFERENCE  
Time estimate 2 months  
Vacated - 06/22/2006 at 9:30am 2  
CONTINUED TO - 06/08/2006 at 8:30am 1, Filing of motion

06/01/2006 DE 1

NTC. OF MTN. & MTN. TO COMPEL DISCOVERY; DECLARATION OF COUNSEL

06/08/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Amy Ariyoshi REP: KS CLK: VL  
Mr Nick makes an oral motion to advance the trial date; people  
object  
Defendant present in custody  
Defense Counsel J David Nick appearing  
Defendant waives time to 8-1-2006 plus 30 days  
Pretrial Confirmation Set - 07/21/2006 at 8:30am 1, PRETRIAL  
CONFIRMATION  
Readiness Conference Set - 07/26/2006 at 9:00am 1, READINESS  
CONFERENCE  
Jury Trial Set - 08/01/2006 at 9:30am 1, JURY TRIAL  
Time estimate 2 months  
CONTINUED TO - 06/13/2006 at 8:30am 1, Filing of motion

06/12/2006 DE 1

ALL FILES ARE IN #1

06/13/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Christine M Cook REP: Barrie Hart CLK: VL  
Defendant present in custody  
Defense Counsel J David Nick appearing  
Defendant waives time to 8/1/2006 plus 30 days  
Jury Trial Set - 08/01/2006 at 9:30am 1, JURY TRIAL  
Pretrial Confirmation Set - 07/21/2006 at 8:30am 1, PRETRIAL  
CONFIRMATION  
Readiness Conference Set - 07/26/2006 at 9:00am 1, READINESS  
CONFERENCE

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06/13/2006 DE 1 Courtroom Minutes of Department 1 (continued)

Time estimate 2 months

CONTINUED TO - 06/20/2006 at 8:30am 1, MOTION, COMPEL, DISCOVERY

Motions Set - 07/12/2006 at 10:00am 1, MOTION

Motions Filed

Time estimate all day

People to file their response to all the motions by 7/3/2006. Any  
reply to be filed by 7/10/2006.

06/13/2006 DE 1

DEFENDANT'S MTN. IN LIMINE TO EXCLUDE ADMISSION OF A SYMBOL THAT  
WAS CARVED ABOVE A DOOR IN A CABIN OWNED BY DEFT'S PARENTS PER EV  
403

DEFENDANT'S SUPPLEMENT TO THE OPPOSITION TO INTRODUCTION OF  
EVIDENCE FOR THE ALLEGED PURPOSE OF PROVING MOTION ON THE PART OF  
DEFENDANT'S OPPOSITION TO INTRODUCTION OF EVIDENCE FOR THE ALLEGED  
PURPOSE OF PROVING MOTIVE ON THE PART OF THE DEFENDANT  
DEFENDANT'S MOTION IN LIMINE TO EXCLUDE THE KNIFE FOUND AT THE  
CRIME SCENE

DEFENDANT'S MOTION IN LIMINE TO EXCLUDE CIRCUMSTANCES SURROUNDING  
AN APRIL 3, 2002 INCIDENT PURSUANT TO EV CODE 1101(B)

DEFENDANT'S MTN. IN LIMINE TO EXCLUDE PHOTOGRAPHS AND VIDEOTAPES  
OF VICTIMS PURSUANT TO PC 352

DEFENDANT'S MTN. IN LIMINE TO EXCLUDE THE PROSECUTION FROM  
REFERENCING THE WEAPON AS AN "ASSAULT RIFLE"

DEFENDANT'S MTN. IN LIMINE TO DISMISS BECAUSE OF DENIAL OF RIGHT TO  
DUE PROCESS UNDER THE CONSTITUTIONS OF THE US AND CALIFORNIA BASED  
DEFT'S OBJECTION TO ADMISSION OF PRIOR SHOTGUN POSSESSION  
CONVICTION & UNCHARGED HARRASSING PHONE CALL INCIDENT PURSUANT TO EV  
CODE 1101

NTC. OF MTN. & MTN. TO SET ASIDE INFORMATION PER PC 995 AND  
CALIFORNIA COMMON LAW

DEFT'S MTN. IN LIMINE TO EXCLUDE ANY MENTION OF ANY ALLEGED FIGHT  
BETWEEN DEFT. & VICTIM JASON BLORE AS A MOTIVE FOR EITHER OF THE

06/16/2006 DE 1

MTN. IN LIMINE TO PERMIT INTRODUCTION OF TYSON MCLAIN'S VIDEO  
RECORDED POLYGRAPH EXAM, MEMORANDUM OF P&A

DEFENDANT'S MTN. IN LIMINE TO EXCLUDE ADMISSION OF DEFENDANT'S  
PRIOR BAD ACTS PER EVIDENCE CODE 1101(B)

DEFENDANT'S MEMORANDUM OF P&A IN SUPPORT OF DEFT'S MTN. TO EXCLUDE  
HEARSAY STATEMENTS PURSUANT TO CRAWFORD V. WASHINGTON

DEFENDANT'S OPPOSITION TO THE USE OF PSYCHIATRIC PROFILE EVIDENCE  
AND PSYCHIATRIC EVIDENCE THAT DEFENDANT HAD CAPACITY TO HARBOR

MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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06/20/2006 DE 1

DEFENDANT'S MTN. IN LIMINE TO INSTRUCT THE PROSECUTION TO ADVISE ALL WITNESSES OF THE ORDERS OF THE COURT FOLLOWING IN LIMINE MTNS. DEFT. MTN. IN LIMINE TO EXCLUDE EVIDENCE OF A FIREARM ALLEGED TO HAVE BEEN BROUGHT TO THE RESIDENCE OF FLORA GREVE OR ANY FIREARM DEFT'S MTN. IN LIMINE TO ORDER THE PROSECUTION NOT TO DISPARGE DEFENSE COUNSEL OR MEMBERS OF THE DEFENSE IN THE PRESENCE OF THE PEOPLE'S OPPOSITION TO DEFENDANT'S MTN. FOR DISCOVERY

06/20/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Christine M Cook REP: Barrie Hart CLK: VL  
Defendant present in custody  
Defense Counsel J. David Nick appearing  
Court request that any reports/information regarding Jeff Berk and Deborah Becker should be provided to the defense. Court request both parties bring all the exhibits of theirs on the hearing of July 12, 2006 that were marked at the preliminar hearing.  
Defendant waives time to 8-1-2006 plus 30 days  
Jury Trial Set - 08/01/2006 at 9:30am 1, JURY TRIAL  
Pretrial Confirmation Set - 07/21/2006 at 8:30am 1, PRETRIAL CONFIRMATION  
Readiness Conference Set - 07/26/2006 at 9:00am 1, READINESS CONFERENCE  
Time estimate 2 months  
CONTINUED TO - 07/12/2006 at 10:00am 1, MOTION

06/21/2006 DE 1

subpoenaed records received from Sonoma County Permit and Resource Management Dept.

06/28/2006 DE 1

subpoenaed records received from Calaveras County Jail/ Sheriff's Dept.

06/30/2006 DE 1

subpoenaed records received from DMV

07/05/2006 DE 1

PEOPLE'S ADDITIONAL MOTIONS IN LIMINE  
PEOPLE'S MOTION IN LIMINE TO ADMIT DEFENDANT'S STATEMENTS  
PEOPLE'S MOTION IN LIMINE TO EXCLUDE EVIDENCE OF WITNESS' PRIOR CONVICTIONS  
PEOPLE'S MOTION IN LIMINE TO ADMIT DEFENDANT'S PRIOR FELONY CONVICTION  
PEOPLE'S MOTION IN LIMINE TO ADMIT DEFENDANT'S PRIOR FELONY CONVICTION  
PEOPLE'S MOTION IN LIMINE TO EXCLUDE EVIDENCE OF THIRD PARTY

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07/05/2006 DE 1

(continued)

CULPABILITY

PEOPLE'S MOTION IN LIMINE TO ALLOW THE JURY TO VIEW THE CRIME  
SCENE

PEOPLE'S MOTION IN LIMINE TO ADMIT EVIDENCE OF DEFENDANT'S  
UNCHARGED MISCONDUCT

PEOPLE'S MOTION IN LIMINE TO ADMIT PHOTOGRAPHS OF VICTIMS  
NTC. OF MTN. & MTN. TO DISMISS INFORMATION FOR FAILURE OF THE  
PROSECUTION TO DIVULGE MATERIAL EXCULPATORY EVIDENCE PRIOR TO THE

07/07/2006 DE 1

PEOPLE'S OPPOSITION TO DEF'S MTN TO DISMISS INFO FOR FAILURE TO  
DIVULGE EXCUPATORY EVIDENCE PRIOR TO THE PRELIM EXAMINATION FILED

07/07/2006 DE 1 Courtroom Minutes of Department 1

CLK: VL

----- In Chambers Minutes in #1 -----

Defendant not present

Defense Counsel Not present

Due to clerical mistake any and all ex-parte/order shortening time  
motions from both the People and Defensen will be heard on  
Wednesday, July 12, 2006 at 10:00 a.m. in Department One.  
CONTINUED TO - 07/12/2006 at 10:00am 1; MOTION

07/07/2006 DE 1

PEOPLE'S OPPOSITION TO DEFENDANT'S MTN. TO DISMISS PER PC 995

PEOPLE'S OPPOSITION TO DEFENDANT'S MTN. IN LIMINE TO EXCLUDE  
PHOTOGRAPHS AND VIDEOTAPES OF VICTIMS

PEOPLE'S OPPOSITION TO DEFENDANT'S MTN. IN LIMINE TO PERMIT  
INTRODUCTION OF TYSON MCLAIN'S VIDEO RECORDED POLYGRAPH EXAM

PEOPLE'S OPPOSITION TO DEFENDANT'S MTN. IN LIMINE TO EXCLUDE  
STATEMENTS PURSUANT TO UNITED STATES V. CRAWFORD

PEOPLE'S OPPOSITION TO DEFENDANT'S MTN. IN LIMINE TO EXCLUDE  
EVIDENCE OF A FIREARM

PEOPLE'S OPPOSITION TO DEFENDANT'S MTN. IN LIMINE TO EXCLUDE ANY  
MENTION OF ALLEGED FIGHT BETWEEN DEFENDANT AND JASON BLORE

PEOPLE'S OPPOSITION TO DEFENDANT'S MTN. IN LIMINE TO EXCLUDE THE  
KNIFE FOUND AT THE CRIME SCENE

PEOPLE'S NON-OPPOSITIONM TO DEFENDANT'S MTNS INM LIMINE OR PARTS OF  
MOTIONS

PEOPLE'S OPPOSITION TO DEFENDANT'S MTN. IN LIMINE TO EXCLUDE  
SYMBOL IN DEFENDANT'S HOME

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07/10/2006 DE 1

PEOPLE'S OPPOSITION TO DEF'S MTN IN LIMINE TO DISMISS FOR  
PREACCUSATION DELAY FILED  
EX-PARTE REQUEST FOR ORDER SHORTENING TIME  
ORDER SHORTENING TIME FOR HEARING ON MTN. TO COMPEL DISCOVERY  
NTC. OF MTN. & MTN. FOR FORMAL DISCOVERY ORDER  
MEMORANDUM OF POINTS & AUTHORITIES  
DECLARATION OF DIANA E. GOMEZ IN SUPPORT OF NTC. OF MTN. & MTN. FOR  
FORMAL DISCOVERY ORDER

07/12/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Deanne Murphey CLK: VL  
Also present in Court is Deputy D.A. Christine Cook.  
Defendant present in custody  
Defense Counsel J. David Nick appearing  
Court and counsel discuss legal issues and motions in limine.  
At 11:36 a.m. Court declares a break.  
At 11:45 a.m. Court reconvenes. All counsel are present.  
Defendant present.  
Court and counsel resume discussion of legal issues and motions in  
limine.  
At 12:06 p.m. Court declares the regular noon recess, whereby  
Court is adjourned until 1:30 p.m.  
At 1:35 p.m. Court reconvenes. All counsel are present.  
Defendant present. Court Reporter is Barrie Hart.  
Court and counsel resume discussion of legal issues and motions in  
limine.  
995 PC Motion Denied (in its entirety)  
At 3:46 p.m. Court declares a break.  
At 4:03 p.m. Court reconvenes. All counsel present. Defendant  
present.  
Court addresses with Ms. Gomez and Mr. Nick the request of if the  
Defendant and counsel would waive their presence and just have the  
Court and Court personnel go downstairs to the juryroom where the  
Court will address the prospective jurors regarding the time  
frame of the case, questionnaires and hardship.  
Ms. Gomez on behalf of the People advises the Court that she will  
waive her right to be present.  
Mr. Nick will discuss it with his client and advise the Court at  
the next hearing.  
Matter is continued to July 20, 2006 at 10:30 a.m. in Department  
One for further hearing on the various motions.  
Court is adjourned at 4:14 p.m.  
CONTINUED TO - 07/20/2006 at 10:30am 1, MOTION



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07/12/2006 DE 1

DEFENDANT'S OPPOSITION TO PROSECUTION'S MOTIONS IN LIMINE  
PEOPLE'S SUPPLEMENTAL MOTION IN LIMINE TO EXCLLUE EVIDENCE OF  
THIRD PARTY CULPABILITY  
SUPPLEMENTAL OPPOSITION TO DEFENDANT'S MOTION IN LIMINE TO DISMISS  
FOR PREACCUSATION DELAY  
DECL. OF J. DAVID NICK IN SUPPORT OF APPLICATION FOR FURTHER FUNDS  
FOR CHRIS REYNOLDS INVESTIGATION (FILED UNDER SEAL)  
EX-PARTE REQUEST TO AMEND ORDER FOR APPOINTMENT OF SECONDARY  
COUNSEL (FILED UNDER SEAL)  
ORDER TO PRODUCE A COPY OF SONOMA COUNTY PROBATION RECORDS FOR  
ZACHARIAH RUTLEDGE IN SCR-24928 (FILED UNDER SEAL)  
ORDER FOR DISBURSEMENT OF FURTHER FUNDS FOR DEFENSE INVESTIGATOR  
CHRIS REYNOLDS FOR AN INDIGENT DEFENDANT (FILED UNDER SEAL)  
ORDER AMENDING APPOINTMENT OF PARALEGAL (FILED UNDER SEAL)  
DEFT'S EX PARTE REQUEST TO INSPECT HIS PROBATION RECORDS; DECL. OF  
COUNSEL (FILED UNDER SEAL)

07/18/2006 DE 1

DEFENDANT'S OFFER OF PROOF REGARDING MARK WHEELER (THIRD PARTY  
CULPABILITY)

07/20/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Larry J. Scoufos REP: Karen Stewart CLK: VL  
Defendant present in custody

Defense Counsel J. David Nick appearing

Defendant waives time to 8-1-2006 plus 30 days

Jury Trial Set - 08/01/2006 at 9:30am 1, JURY TRIAL

Pretrial Confirmation Set - 07/25/2006 at 10:30am 1, PRETRIAL  
CONFIRMATION

Readiness Conference Set - 07/25/2006 at 10:30am 1, PRETRIAL  
CONFIRMATION, READINESS CONFERENCE

Time estimate 2 months

Vacated - 07/21/2006 at 8:30am 1

Vacated - 07/26/2006 at 9:00am 1

Court will now proceed with the hearing on the Writ Of Mandate.  
Present in Court is Defendant, Attorney J. David Nick and John  
Abrahams.

Court ask Mr. Abrahams the following questions:

1. Does the Public Defender's Office have a conflict  
representing the Defendant in this case, to which he responds No.
2. Is the Public Defender's Office available and ready for trial  
in this matter which is set for August 1, 2006, to which he  
responds No.
3. How long would it take the Public Defender's Office to come up  
to speed and be ready for trial in this matter, to which he  
responds 90 days or moare.

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07/20/2006 DE 1 Courtroom Minutes of Department 1 (continued)

Based on the information provided to the Court, Court finds that there is good cause to appoint and have the representation of the Defendant by J. David Nick for reasons stated in open Court. Court appoints Mr. J. David Nick to represent the Defendant Zachariah Rutledge through the entire trial and at the expense of the County Of Sonoma. This order is being made Nunc Pro Tunc to May 19, 2006.

07/20/2006 DE 1

PEOPLE'S ADDENDUM #2 TO PEOPLE'S PROPOSED WITNESS LIST  
REPORTERS TRANSCRIPT OF PROCEEDINGS (MAY 23, 2006)

07/21/2006 DE 1

SUBPOENAED RECORDS RECEIVED FROM DMV FOR SUBPOENA DATED 7/18/06  
SUBPOENAED RECORDS RECEIVED FROM DMV FOR SUBPOENA DATED 8/1/06

07/25/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Barrie Hart CLK: VL  
Defendant present in custody  
Defense Counsel J. David Nick appearing  
Court and counsel discuss motions in limine.  
Defendant waives time to 8-1-2006 plus 30 days  
Jury Trial Set - 08/01/2006 at 9:30am 1, JURY TRIAL  
Pretrial Conference Held  
Time estimate 2 months  
CONTINUED TO - 07/26/2006 at 10:30am 1, MOTION

07/25/2006 DE 1

PEOPLE'S P&A IN SUPPORT OF REQUEST FOR PROTECTIVE ORDER  
PEOPLE'S P&A IN SUPPORT OF REQUEST FOR COURT ORDER THAT DEFENSE  
ATTYDAVID NICK OR DEP. PD TURN OVER EVIDENCE TO THE PEOPLE

07/26/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Barrie Hart CLK: VL  
This cause comes on regularly this date for further hearing on the pretrial motions and motions in limine pursuant to adjournment of July 25, 2006. At 10:32 a.m. Court convened. Counsel J. David Nick present. Defendant present.  
Court and counsel resume discussion of pretrial motions and motions in limine.  
At 11:45 a.m. Court declares the regular noon recess, whereby Court is adjourned until 1:30 p.m.  
At 1:32 p.m. Court reconvenes. Counsel J. David Nick present. Defendant present.  
Court and counsel resume discussion of pretrial motions and motions



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07/26/2006 DE 1 Courtroom Minutes of Department 1 (continued)

in limine.

At 2:47 p.m. Court declares a break.

At 3:01 p.m. Court reconvenes. Counsel J. David Nick present.

Defendant present.

Court and counsel resume discussion of pretrial motions and motions in limine.

At 3:31 p.m. Court is adjourned until July 27, 2006 at 10:30 a.m.

in Department One for further hearing on motions.

CONTINUED TO - 07/27/2006 at 10:30am 1, MOTION

07/26/2006 DE 1

REQUEST FOR THE PRODUCTION OF WITNESS ADDRESSES

07/27/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: CHRIS ARNESON CLK: VL

This cause comes on regularly this date for further pretrial motions and motions in limine pursuant to adjournment of July

26, 2006. At 10:51 a.m. Court convened. Counsel J. David Nick

present. Defendant present.

Court and counsel resume discussion of pretrial motions and motions in limine.

At 11:26 a.m. Court declares the regular noon recess, whereby

Court is adjourned until 1:45 p.m.

At 2:02 p.m. Court reconvenes. Counsel J. David Nick present.

Defendant present. Clerk is Juli Thompson.

Court and counsel resume discussion of pretrial motions and motions in limine.

At 3:00 p.m. Court declares a break.

At 3:18 p.m. Court reconvenes. Counsel J. David Nick present.

Defendant present.

Court and counsel resume discussion of pretrial motions and motions in limine.

At 4:19 p.m. Court declares a break.

At 4:24 p.m. Court reconvenes. Counsel J. David Nick present.

Defendant present.

Court and counsel resume discussion of pretrial motions and motion in limine.

Vacated - 08/01/2006 at 9:30am 1

CONTINUED TO - 08/03/2006 at 10:30am 1, MOTION

08/02/2006 DE 1

DEFENDANT'S ADDITIONAL INLIMINE MOTIONS

DEF'S MTN ON LIMINE TO EXCLUDE EVDNCE & CRCMSTNCS SURROUNDING AN

SKSRIFLE ALLEGED TO HAVE BEEN TAKEN FROM ADAIR RESDNCE IN 96 BY DEF

MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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08/03/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Karen Stewart CLK: VL  
 This cause comes on regularly this date for further hearing on  
 pretrial motions and motions in limine pursuant to adjournment of  
 July 27, 2006. At 10:57 a.m. Court convened. Counsel J. David  
 Nick present. Defendant present.

Court and counsel go over juror hardship form and calendar.

Court and counsel resume discussion of pretrial motions and motions  
 in limine.

At 12:01 p.m. Court declares the regular noon recess, whereby  
 Court is adjourned until 1:30 p.m.

At 1:40 p.m. Court reconvenes. Counsel J. David Nick present.  
 Defendant present.

Court and counsel resume discussion of pretrial motions and motions  
 in limine.

At 2:43 p.m. Court declares a break.

At 2:56 p.m. Court reconvenes. Counsel J. David Nick present.  
 Defendant present.

Court and counsel resume discussion of pretrial motions and motions  
 in limine.

Court admonishes counsel Nick regarding his voice volume and tone  
 earlier.

At 3:20 p.m. Court declares a recess.

At 3:46 p.m. Court reconvenes. Counsel J. David Nick present.  
 Defendant present.

Court and counsel resume discussion of pretrial motions and motions  
 in limine.

At 4:42 p.m. Court is adjourned until August 4, 2006 at 10:00 a.m.  
 in Department One for further hearing on motions.

CONTINUED TO - 08/04/2006 at 10:00am 1, MOTION

08/04/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Karen Stewart CLK: VL  
 JURY TRIAL - 1ST DAY

This cause comes on regularly this date for further hearing on  
 pretrial motions commencement of jury trial pursuant to adjournment  
 of August 3, 2006. At 10:08 a.m. Court convened out of the  
 presence of prospective jurors. Counsel J. David Nick present.  
 Defendant present.

Court will close the Courtroom at this time to take up a matter  
 that was presented to the Court on an ex-parte basis by Chris  
 Reynolds.

Only person's present in the Courtroom are the Court, Court Staff,  
 Court Security, Defendant, District Attorney and Defendant's  
 Legal Staff.

Chris Reynolds addresses the Court.

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08/04/2006 DE 1 Courtroom Minutes of Department 1 (continued)

Ms. Gomez addresses the Court.

At 10:19 a.m. Courtroom is open to the public.

Court and counsel resume discussion of pretrial motions and motions in limine.

Counsel advise the Court that they have no objection to this Court going on its own to view the property in question.

At 11:12 a.m. Court declares a break.

At 11:34 a.m. Court reconvenes.

Court will close the Courtroom.

Only persons present in the Courtroom are the Court, Court Staff, Court Security, Defendant, District Attorney and Defendant's Legal Staff.

Ms. Gomez addresses the Court.

At 11:36 a.m. Courtroom is open to the public.

Court and counsel resume discussion of pretrial motions and motions in limine.

At 12:13 p.m. Court declares the regular noon recess, whereby Court is adjourned until 1:30 p.m.

At 1:30 p.m. Court goes on the record out of the presence of the Defendant and District Attorney in the jury room. Court present, Court Clerk present, Court Reporter present and Bailiff's are present. First panel of prospective jurors are sworn in as to their qualifications. The Court briefly outlines the case to the prospective jurors and explains the time frame of this case.

At 1:50 p.m. prospective jurors not claiming a hardship are admonished and excused to remain in the juryroom to complete the jury questionnaire and return to Courtroom One on Thursday, August 10, 2006 at 10:00 a.m. for commencement of jury selection.

Prospective jurors who are claiming a hardship remain in the juryroom and fill out their hardship forms and are advised to go to Courtroom One at 3:00 p.m.

Court is adjourned out of the presence of Defendant and District Attorney at 1:55 p.m.

At 2:58 p.m. Court reconvenes. Counsel J. David Nick present. Defendant present.

Prospective jurors that are claiming a hardship are brought into the Courtroom.

Court introduces parties to the prospective jurors.

Court and counsel remain in session and hear hardship excuses from prospective jurors.

At 4:22 p.m. Court is adjourned until Tuesday, August 8, 2006 at 1:30 p.m. in Department One.

Map is marked Court Exhibit No. 1.

Large Color Photograph is marked Court Exhibit No. 2.

Large Color Photograph is marked Court Exhibit No. 3.

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08/04/2006 DE 1 Courtroom Minutes of Department 1 (continued)

Large Color Photograph is marked Court Exhibit No. 4.

Large Color Photograph is marked Court Exhibit No. 5.

CONTINUED TO - 08/08/2006 at 1:30pm 1, JURY TRIAL

08/04/2006 DE 1

DEFENDANT'S RESPONSE TO PEOPLE'S MTN. IN LIMINE TO ADMIT

DEFENDANT'S SEPTEMBER 17, 1999 INTERVIEW

DEFENDANT'S RENEWED MTN. IN LIMINE TO ORDER THE PROSECUTION NOT TO  
DISPARAGE DEFENSE CSL OR MEMEBERS OF THE DEFENSE TEAM IN THE

08/07/2006 DE 1

DEFENDANT'S RESPONSE TO PEOPLE'S REQUEST FOR GAG ORDER

08/08/2006 DE 1

SUPBOENED RECORDS FROM SBC

08/08/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Barrie Hart CLK: VL  
JURY TRIAL - 2ND DAY

This cause comes on regularly this date for further jury trial pursuant to adjournment of August 4, 2006. At 1:30 p.m. Court goes on the record out of the presence of the Defendant and District Attorney in the juryroom. Court present, Court Clerk present, Court Reporter present and Bailiff is present. Second panel of prospective jurors are sworn in as to their qualifications. The Court briefly outlines the case to the prospective jurors and explains the time frame of this case. At 1:46 p.m. prospective jurors not claiming a hardship are admonished and excused to remain in the juryroom to complete the jury questionnaire and return to Courtroom One on Thursday, August 10, 2006 at 10:00 a.m. for commencement of jury selection. Prospective jurors who are claiming a hardship remain in the juryroom and fill out their hardship forms and are advised to go to Courtroom One at 3:00 p.m. Court is adjourned out of the presence of the Defendant and District Attorney at 1:47 p.m.

At 2:52 p.m. Court reconvenes out of the presence of the 2nd panel of prospective jurors. Counsel Chris Andrian specially appearing on behalf of attorney J. David Nick. Defendant present.

Defendant personally advises the Court that he agrees that Mr. Andrian may participate in the questioning of hardships today.

At 3:09 p.m. Court is adjourned.

At 3:15 p.m. Court reconvenes. Counsel Chris Andrian present. Defendant present.

2nd panel of prospective jurors that are claiming a hardship are brought into the Courtroom.

Court introduces parties to the 2nd panel of prospective jurors.

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08/08/2006 DE 1 Courtroom Minutes of Department 1 (continued)

Court and counsel remain in session and hear hardship excuses from 2nd panel of prospective jurors.

At 4:50 p.m. Court is adjourned until Wednesday, August 9, 2006 at 11:30 a.m. in Department One.

CONTINUED TO - 08/09/2006 at 11:30am 1, JURY TRIAL

08/08/2006 DE 1

DECL. OF E. MICHAEL LINSCHIED, PARALEGAL/SECONDARY CSL. REQUESTING REIMBURSEMENT FROM THE COS FOR FUNDS EXPUNDED OBO DEFT. (FILED ORDER FOR THE DISBURSEMENT OF FUNDS TO SECONDARY DEF. CSL/PARALEGAL E. MICHAEL LINSCHIED FOR FUNDS EXPENDED OBO DEFENSE (FILED UNDER

08/09/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Barrie Hart CLK: VL  
JURY TRIAL - 3RD DAY

This cause comes on regularly this date for further jury trial pursuant to adjournment of August 8, 2006. At 11:37 a.m. Court convened out of the presence of prospective jurors. Counsel J. David Nick present. Defendant present. Also present in Court is Deputy D.A. Christine Cook.

Court and counsel resume discussion of pretrial motions and motions in limine.

At 12:07 p.m. Court declares the regular noon recess, whereby Court is adjourned until 1:30 p.m.

At 1:34 p.m. Court goes on the record out of the presence of the Defendant in the juryroom. Court present, Court Clerk present, Court Reporter present, Bailiff present, District Attorney present, J. David Nick present. Third panel of prospective jurors are sworn in as to their qualifications. The Court briefly outlines the case to the prospective jurors and explains the time frame of this case. At 1:52 p.m. prospective jurors not claiming a hardship are admonished and excused to remain in the juryroom to complete the jury questionnaire and return to Courtroom One on Thursday, August 10, 2006 for commencement of jury selection. Prospective jurors who are claiming a hardship remain in the juryroom and fill out their hardship forms and are advised to go to Courtroom One at 3:00 pm.

Court is adjourned out of the presence of the Defendant at 1:54 p.m.

At 2:46 p.m. Court reconvenes out of the presence of the prospective jurors. Counsel J. David Nick present. Defendant present.

At 2:56 p.m. third panel of prospective jurors that are claiming a hardship are brought into the Courtroom.

Court introduces parties to the 3rd panel of prospective jurors. Court and counsel remain in session and hear hardship excuses from 3rd panel of prospective jurors.



MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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08/09/2006 DE 1 Courtroom Minutes of Department 1 (continued)

At 3:35 p.m. Court declares a break.

At 3:50 p.m. Court reconvenes out of the presence of the prospective jurors. Counsel J. David Nick present. Defendant present. Also present in Court is D.A. Christine Cook.

Court and counsel resume discussion of legal issues.

Court issues the following protective order: It is the Order of this Court that no party to this action, nor any attorney connected with this case as defense counsel or as a prosecutor, nor any other attorney, nor any public official, including but not limited to any chief of police, nor any sheriff, nor any agent, deputy or employee of any such persons, nor any witness having appeared at the preliminary hearing in this matter, nor any person subpoenaed to testify at the trial of this matter, shall release or authorize the release for public dissemination of any purported extrajudicial statement of either of the defendants relating to this case, nor shall any such persons release or authorize the release of any documents, exhibits, or any evidence, the admissibility of which may have to be determined by the Court, nor shall any such person make any statement for public dissemination as to the existence or possible existence of any document, exhibit, or any other evidence, the admissibility of which may have to be determined by the Court. Nor shall any such persons express outside of court an opinion or make any comment for public dissemination as to the weight, value, or effect of any evidence as tending to establish guilt or innocence. Nor shall any such persons make any statement outside of court as to the nature, substance, or effect of any testimony that has been given. Nor shall any such persons issue any statement as to the identity of any prospective witness or his probable testimony, or the effect thereof. Nor shall any person make any out-of-court statement as to the nature, source, or effect of any purported evidence alleged to have been accumulated as a result of the investigation of this matter. Nor shall any such person or any witness, whether or not under subpoena, make any statement as to the content, nature, substance, or effect of any testimony which may be given in any proceeding related to this matter, except that a witness may discuss any matter with any attorney of record or agent thereof. "This Order does not include any of the following. 1. Factual statements of the accused person's name, age, residence, occupation, and family status. 2. The circumstances of the arrest, namely, the time and place of the arrest, the identity of the arresting and investigating officers and agencies, and the length of the investigation. 3. The nature, substance, and text of the charge, including a brief description of the offenses charged. 4. Questions from, or any reference without comment to, public records of the Court in the case, or to other public records or communications heretofore disseminated to the public. 5. The scheduling and result of any

MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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08/09/2006 DE 1 Courtroom Minutes of Department 1 (continued)

stage of the judicial proceeding held in open Court in an open or public session. 6. A request for assistance in obtaining evidence. 7. Any information as to any person not in custody who is sought as a possible suspect or witness, nor any statement aimed at warning the public of any possible danger as to such person not in custody. 8. A request for assistance in the obtaining of evidence or the names of possible witnesses. This Order is not intended to preclude any witness from discussing any matter in connection with the case with any of the attorneys representing the defendants or the People, or any representative of such attorneys.

Court and counsel resume discussion of legal issues.

At 4:10 p.m. Courtroom is closed to the public.

Only person's present in the Courtroom are the Court, Court Staff, Court Security, Defendant, District Attorney (both), and Defendant's Legal Staff.

Ms. Cook addresses the Court.

At 4:20 p.m. Courtroom is open to the public.

Court and counsel resume discussion of legal issues.

At 4:30 p.m. Court is adjourned until August 10, 2006 at 10:00 a.m. in Department One for commencement of voir dire.

CONTINUED TO - 08/10/2006 at 10:00am 1, JURY TRIAL

08/10/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Barrie Hart CLK: VL  
JURY TRIAL - 4TH DAY

This cause comes on regularly this date for further jury trial/commencement of voir dire pursuant to adjournment of August 9, 2006.

At 10:17 a.m. Court convened out of the presence of the prospective jurors. Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

At 10:21 a.m. prospective juror number 1202 is brought into the Courtroom and asked questions by the Court.

By stipulation of counsel, prospective juror number 1202 is excused.

At 10:44 a.m. prospective jurors (panels 1, 2 and 3) are brought into the Courtroom.

Court addresses said prospective jurors.

Clerk reads the 1st Amended Information to the prospective jurors.

Upon order of the Court the clerk calls the numbers of eighteen (18) prospective jurors to fill the box.

Court and counsel commence voir dire of prospective jurors seated in the box.

At 11:51 a.m. Court admonishes the prospective jurors and declares the regular noon recess, whereby Court is adjourned until 1:30 p.m.

At 1:41 p.m. Court reconvenes out of the presence of the prospective jurors. Counsel J. David Nick present. Defendant

MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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08/10/2006 DE 1 Courtroom Minutes of Department 1 (continued)

present.

At 1:42 p.m. prospective juror number 752 is brought into the Courtroom and asked questions by the Court.

At 1:46 p.m. prospective juror number 752 exits the Courtroom.

Ms. Gomez on behalf of the People request challenge for cause.

Mr. Nick on behalf of the Defendant objects.

Court DENIES the challenge for cause.

At 1:55 p.m. prospective jurors are brought into the Courtroom.

All prospective jurors are present.

Court and counsel resume voir dire of prospective jurors seated in the box.

At 3:15 p.m. Court declares a break.

Out of the presence of the prospective jurors, Court and counsel remain in session. Defendant present.

Ms. Gomez on behalf of the People challenges for cause prospective jurors number 1059 and 999.

Mr. Nick on behalf of the Defendant objects.

Court DENIES the challenges.

At 3:23 p.m. Court declares a break.

At 3:42 p.m. Court reconvenes. Counsel J. David Nick present.

Defendant present. All prospective jurors are present.

Court and counsel resume voir dire of prospective jurors seated in the box.

At 4:35 p.m. Court admonishes the prospective jurors and prospective jurors are excused until Friday, August 11, 2006 at 10:00 a.m. in Department One.

Court and counsel remain in session and hear hardship excuses from prospective jurors.

Stop at 4:53 p.m.

Out of the presence of the prospective jurors, Court and counsel remain in session. Defendant present. Also present in Court is attorney Marie Case.

Court and counsel discuss legal issues.

Court is adjourned at 5:00 p.m.

CONTINUED TO - 08/11/2006 at 10:00am 1, JURY TRIAL

08/11/2006 DE 1

SUBPOENED RECORDS REC-SHERIFF'S DEPT

08/11/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Barrie Hart CLK: VL  
JURY TRIAL - 5TH DAY

This cause comes on regularly this date for further jury trial pursuant to adjournment of August 10, 2006. At 10:09 a.m. Court convened out of the presence of the prospective jurors. Counsel J. David Nick present. Defendant present.



MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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08/11/2006 DE 1 Courtroom Minutes of Department 1 (continued)

Court and counsel discuss legal issues.

Mr. Nick on behalf of the Defendant request challenge for cause as to prospective juror number 814.

Ms. Gomez on behalf of the People objects.

Court DENIES the challenge for cause.

At 10:21 a.m. prospective jurors are brought into the Courtroom.

All prospective jurors are present.

Court and counsel resume voir dire of prospective jurors seated in the box.

Peremptory Challenges having been exercised and both sides now being satisfied, the following are sworn in to try the cause: #725; #764; #1253; #1092; #1118; #937; #1083; #805; #839; #1241; #1220 and #1231.

At 12:00 p.m. Court admonishes the jurors and remaining prospective jurors and declares the regular noon recess, whereby Court is adjourned until 1:30 p.m.

At 1:33 p.m. Court reconvenes out of the presence of the jury and prospective jurors. Counsel J. David Nick present. Defendant present.

Court receives a note from juror number 1083 sitting in seat number seven.

Court and counsel discuss said note.

At 1:37 p.m. juror number 1083 sitting in seat number seven is brought into the Courtroom.

Court advises said juror that the Court is not going to be granted his hardship for reasons stated in open Court.

At 1:41 p.m. remaining jurors and prospective jurors are brought into the Courtroom.

Court and counsel resume voir dire of prospective jurors seated in the box regarding alternate jurors.

At 2:44 p.m. Court declares a break.

At 3:03 p.m. Court reconvenes out of the presence of the jury and prospective jurors. Counsel J. David Nick present. Defendant present.

Prospective juror number 1006 is brought into the Courtroom and asked questions by the Court and counsel.

At 3:07 p.m. prospective juror number 1006 exits the Courtroom.

At 3:07 p.m. prospective juror number 644 is brought into the Courtroom and asked questions by the Court and counsel.

Following discussion with prospective juror number 644, Court excuses said prospective juror.

At 3:12 p.m. prospective juror number 644 exits the Courtroom.

At 3:15 p.m. jurors and prospective jurors are brought back into the Courtroom.

Court and counsel resume voir dire of prospective jurors seated in the box regarding alternate jurors.

Peremptory Challenges having been exercised and both sides now

MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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08/11/2006 DE 1 Courtroom Minutes of Department 1 (continued)

being satisfied, the following are sworn in as the alternate jurors: #1082; #699; #1006 and #777.

Court reads Preliminary Instructions to the jury.

At 4:03 p.m. Court admonishes the jury and jurors are excused until Tuesday, August 15, 2006 at 10:00 a.m. in Department One. Out of the presence of the jury, Court and counsel remain in session.

Court and counsel discuss legal issues.

Court is adjourned at 4:20 p.m.

CONTINUED TO - 08/15/2006 at 10:00am 1, JURY TRIAL

08/11/2006 DE 1

JURY TRIAL COMMENCED

08/14/2006 DE 1

Media Request Filed (Press Democrat) for 8/15/06 Hearing  
Order on Media Request filed is Denied (Press Democrat) for 8/15/06 Hearing

08/15/2006 DE 1

PEOPLE'S ADDENDUM #3 TO PEOPLE'S PROPOSED WITNESS LIST

08/15/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Karen Stewart CLK: VL  
JURY TRIAL - 6TH DAY

This cause comes on regularly this date for further jury trial pursuant to adjournment of August 11, 2006. At 10:04 a.m. Court convened out of the presence of the jury. Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

Note From Juror is marked Court Exhibit No. 1.

Note From Juror is marked Court Exhibit No. 2.

At 10:26 a.m. jurors are brought into the Courtroom. All jurors are present.

Ms. Gomez makes her opening statement to the jury on behalf of the People.

At 10:47 a.m. Court declares a break.

At 10:52 a.m. Court reconvenes out of the presence of the jury.

Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

At 10:54 a.m. jurors are brought into the Courtroom. All jurors are present.

Mr. Nick makes his opening statement to the jury on behalf of the Defendant.

At 12:02 p.m. Court admonishes the jurors and declares the regular noon recess, whereby Court is adjourned until 1:30 p.m.

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08/15/2006 DE 1 Courtroom Minutes of Department 1 (continued)

Out of the presence of the jury, Court and counsel remain in session. Defendant present.

Court and counsel discuss legal issues.

Court is adjourned until 12:05 p.m.

At 1:30 p.m. Court reconvenes out of the presence of the jury.

Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

Court DENIES Defendant's request to disqualify juror number 1083..

At 1:35 p.m. jurors are brought into the Courtroom. All jurors are present.

Mr. Nick resumes making his opening statement to the jury on behalf of the Defendant.

At 3:00 p.m. Court declares a break.

At 3:18 p.m. Court reconvenes out of the presence of the jury.

Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

At 3:21 p.m. jurors are brought into the Courtroom. All jurors are present.

Mr. Nick resumes making his opening statement to the jury on behalf of the Defendant.

Emily Musgrave is sworn and testifies on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 1 on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 2 on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 3 on behalf of the People.

Vela Millen is sworn and testifies on behalf of the People.

Color Photograph is marked Exhibit No. A for Identification on behalf of the Defendant.

At 4:42 p.m. Court admonishes the jury and jurors are excused until August 16, 2006 at 10:00 a.m. in Department One.

Out of the presence of the excused jurors, Court and counsel remain in session. Defendant present.

Also present in the Courtroom is alternate juror number 4 #777.

Court ask questions of alternate juror number 777.

Court DENIES alternate juror number 4 #777 hardship claim for reasons stated in open Court.

At 4:48 p.m. alternate juror number 4 #777 exits the Courtroom.

Court and counsel remain in session and discuss legal issues, whereby at 5:00 p.m. Court is adjourned.

CONTINUED TO - 08/16/2006 at 10:00am 1, JURY TRIAL

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08/15/2006 DE 1

MEMO OF L&M TO PERMIT DEFENSE CSL. TO IMPEACH AND/OR EXAMINE  
PROSECUTION WITNESS TYSON MCLAIN THROUGH PRIOR INCONSISTENT  
DEFENDANT'S MEMO OF LAW IN SUPPORT OF DISQUALIFICATION OF JUROR  
#1083 FOR INTENTIONALLY CONCEALING AND/OR GIVING FALSE ANSWERS

08/16/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Karen Stewart CLK: VL  
JURY TRIAL - 7TH DAY

This cause comes on regularly this date for further jury trial  
pursuant to adjournment of August 15, 2006. At 10:04 a.m. Court  
convened out of the presence of the jury. Counsel J. David Nick  
present. Defendant present.

Note From Juror is marked Court Exhibit No. 3.

Court and counsel discuss legal issues.

At 10:06 a.m. jurors are brought into the Courtroom. All jurors  
are present.

Vela Millen heretofore sworn resumes the stand and further  
testifies.

DVD is marked Exhibit No. 4 for Identification on behalf of the  
People.

Thomas Dean Lynch is sworn and testifies on behalf of the People.

Blow Up Of Aerial Photograph is marked Exhibit No. 5 for  
Identification on behalf of the People.

Blow Up Of Aerial Photograph is marked Exhibit No. 6 for  
Identification on behalf of the People.

Tape is marked Exhibit No. 7 for Identification on behalf of the  
People.

Copy Of Transcript is marked Exhibit No. 7-A for Identification on  
behalf of the People.

Counsel stipulate that the Court Reporter need not transcribe the  
listening of the tape.

Color Photograph is marked Exhibit No. B for Identification on  
behalf of the Defendant.

Color Photograph is marked Exhibit No. C for Identification on  
behalf of the Defendant.

Color Photograph is marked Exhibit No. D for Identification on  
behalf of the Defendant.

Color Photograph is marked Exhibit No. E for Identification on  
behalf of the Defendant.

Color Photograph is marked Exhibit No. F for Identification on  
behalf of the Defendant.

Exhibit(s) B-F heretofore marked for Identification are offered and  
received into evidence and bear the same mark.

Blow Up Color Photograph is offered and received into evidence and  
marked Exhibit No. G on behalf of the Defendant.

Color Photograph is marked Exhibit No. H for Identification on

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08/16/2006 DE 1 Courtroom Minutes of Department 1 (continued)

behalf of the Defendant.

Color Photograph is marked Exhibit No. I for Identification on behalf of the Defendant.

Color Photograph is marked Exhibit No. J for Identification on behalf of the Defendant.

Color Photograph is marked Exhibit No. K for Identification on behalf of the Defendant.

At 11:24 a.m. Court declares a break.

Out of the presence of the jury, Court and counsel remain in session. Defendant present.

Court and counsel discuss legal issues.

Court is adjourned at 11:30 a.m.

At 11:38 a.m. Court reconvenes. Counsel J. David Nick present.

Defendant present. All jurors are present.

Thomas Dean Lynch heretofore sworn resumes the stand and further testifies.

Otto Gustav Meyer is sworn and testifies on behalf of the People.

Tape is marked Exhibit No. 8 for Identification on behalf of the People.

Copy Of Transcript is marked Exhibit No. 8-A for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 9 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 10 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 11 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 12 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 13 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 14 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 15 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 16 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 17 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 18 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 19 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 20 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 21 for Identification on behalf of the People.

MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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08/16/2006 DE 1 Courtroom Minutes of Department 1 (continued)

Color Photograph is marked Exhibit No. 22 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 23 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 24 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 25 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 26 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 27 for Identification on behalf of the People.

At 12:00 p.m. Court admonishes the jurors and declares the regular noon recess, whereby Court is adjourned until 1:30 p.m.

At 1:30 p.m. Court reconvenes out of the presence of the jury.

Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

At 1:32 p.m. jurors are brought into the Courtroom. All jurors are present.

Otto Gustav Meyer heretofore sworn resumes the stand and further testifies.

Diagram is marked Exhibit No. 28 for Identification on behalf of the People.

Overlay is marked Exhibit No. 28-A for Identification on behalf of the People.

Diagram is marked Exhibit No. 29 for Identification on behalf of the People.

Overlay is marked Exhibit No. 29-A for Identification on behalf of the People.

Overlay is marked Exhibit No. 21-A for Identification on behalf of the People.

Counsel stipulate that the Court Reporter need not transcribe the listening of the tape.

Overlay is marked Exhibit No. 24-A for Identification on behalf of the People.

At 2:46 p.m. Court declares a break.

At 3:06 p.m. Court reconvenes out of the presence of the jury.

Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

At 3:08 p.m. jurors are brought into the Courtroom. All jurors are present.

Otto Gustav Meyer heretofore sworn resumes the stand and further testifies.

Large Brown Envelope is marked Exhibit No. 30 for Identification on behalf of the People.

Sheath is marked Exhibit No. 30-A for Identification on behalf of the People.



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08/16/2006 DE 1 Courtroom Minutes of Department 1 (continued)

Small Brown Envelope is marked Exhibit No. 30-B for Identification on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. L on behalf of the Defendant.

Color Photograph is marked Exhibit No. M for Identification on behalf of the Defendant.

Stephen K. Baxman is sworn and testifies on behalf of the People.

Color Photograph is marked Exhibit No. N for Identification on behalf of the Defendant.

Color Photograph is offered and received into evidence and marked Exhibit No. O on behalf of the Defendant.

At 4:35 p.m. Court admonishes the jury and jurors are excused until August 17, 2006 at 10:00 a.m. in Department One.

Out of the presence of the jury, Court and counsel remain in session. Defendant present.

Alternate juror number 4 #777 present in Court.

Court ask questions of alternate juror number 4 #777.

Following discussion with alternate juror number 4 #777, Court will excuse said alternate juror from this case.

At 4:37 p.m. alternate juror number 4 #777 exits the Courtroom.

Court and counsel remain in session and discuss legal issues.

Court is adjourned at 4:53 p.m.

CONTINUED TO - 08/17/2006 at 10:00am 1, JURY TRIAL

08/16/2006 DE 1

SUBPOENED RECORDS REC-SBC-2 SETS

08/17/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Karen Stewart CLK: VL  
JURY TRIAL - 8TH DAY

This cause comes on regularly this date for further jury trial pursuant to adjournment of August 16, 2006. At 10:14 a.m. Court convened out of the presence of the jury. Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

At 10:18 a.m. jurors are brought into the Courtroom. All jurors are present.

Paul Gregg is sworn and testifies on behalf of the People.

Color Photograph is marked Exhibit No. 31 for Identification on behalf of the People.

Overlay is marked Exhibit No. 29-B for Identification on behalf of the People.

Overlay is marked Exhibit No. 24-B for Identification on behalf of the People.

Overlay is marked Exhibit No. 25-A for Identification on behalf of the People.



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08/17/2006 DE 1 Courtroom Minutes of Department 1 (continued)

Color Photograph is marked Exhibit No. 32 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 33 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 34 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 35 for Identification on behalf of the People.

Overlay is marked Exhibit No. 21-B for Identification on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. P on behalf of the Defendant.

Color Photograph is offered and received into evidence and marked Exhibit No. Q on behalf of the Defendant.

Color Photograph is offered and received into evidence and marked Exhibit No. R on behalf of the Defendant.

Color Photograph is offered and received into evidence and marked Exhibit No. S on behalf of the Defendant.

Color Photograph is offered and received into evidence and marked Exhibit No. T on behalf of the Defendant.

Color Photograph is offered and received into evidence and marked Exhibit No. U on behalf of the Defendant.

Color Photograph is offered and received into evidence and marked Exhibit No. V on behalf of the Defendant.

Color Photograph is marked Exhibit No. W for Identification on behalf of the Defendant.

Color Photograph is marked Exhibit No. X for Identification on behalf of the Defendant.

Color Photograph is offered and received into evidence and marked Exhibit No. Y on behalf of the Defendant.

Color Photograph is offered and received into evidence and marked Exhibit No. Z on behalf of the Defendant.

Color Photograph is offered and received into evidence and marked Exhibit No. AA on behalf of the Defendant.

Color Photograph is offered and received into evidence and marked Exhibit No. BB on behalf of the Defendant.

At 12:00 p.m. Court admonishes the jurors and declares the regular noon recess, whereby Court is adjourned until 1:30 p.m.

At 1:33 p.m. Court reconvenes. Counsel J. David Nick present. Defendant present. All jurors are present.

Chuck Herzog is sworn and testifies on behalf of the People.

Color Photograph is marked Exhibit No. 36 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 37 for Identification on behalf of the People.

Overlay is marked Exhibit No. 24-C for Identification on behalf of the People.

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08/17/2006 DE 1 Courtroom Minutes of Department 1 (continued)

Overlay is marked Exhibit No. 29-C for Identification on behalf of the People.

Overlay is marked Exhibit No. 25-B for Identification on behalf of the People.

Overlay is marked Exhibit No. 21-C for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 38 for Identification on behalf of the People.

At 2:28 p.m. Court declares a break.

At 2:42 p.m. Court reconvenes. Counsel J. David Nick present. Defendant present. All jurors are present.

Chuck Herzog heretofore sworn resumes the stand and further testifies.

Color Photograph is offered and received into evidence and marked Exhibit No. CC on behalf of the Defendant.

Exhibit No. X heretofore marked for Identification is offered and received into evidence and bears the same mark.

Charles McMenomey is sworn and testifies on behalf of the People.

At 3:50 p.m. Court declares a break.

At 4:02 p.m. Court reconvenes. Counsel J. David Nick present. Defendant present. All jurors are present.

Charles McMenomey heretofore sworn resumes the stand and further testifies.

Color Photograph is marked Exhibit No. 39 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 40 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 41 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 42 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 43 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 44 for Identification on behalf of the People.

Brown Envelope is marked Exhibit No. 45 for Identification on behalf of the People.

White Box is marked Exhibit No. 45-A for Identification on behalf of the People.

Black Box is marked Exhibit No. 45-B for Identification on behalf of the People.

Small Manila Envelope is marked Exhibit No. 45-C for Identification on behalf of the People.

Court Exhibit No. 4 is hereby withdrawn and remarked DD.

Color Photograph is marked Exhibit No. DD for Identification on behalf of the Defendant.

Clear Folder Containing Five Photographs is offered and received

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08/17/2006 DE 1 Courtroom Minutes of Department 1 (continued)  
into evidence and marked Exhibit No. EE on behalf of the Defendant.  
Clear Folder Containing Six Photographs is offered and received  
into evidence and marked Exhibit No. FF on behalf of the Defendant.  
At 4:45 p.m. Court admonishes the jury and jurors are excused  
until August 18, 2006 at 10:00 a.m. in Department One.  
Out of the presence of the jury, Court and counsel remain in  
session. Defendant present.  
Court and counsel discuss legal issues.  
Court is adjourned at 4:50 p.m.  
CONTINUED TO - 08/18/2006 at 10:00am 1, JURY TRIAL

08/17/2006 DE 1  
DECLARATION OF J. DAVID NICK, CSL. FOR DEFT. REQUESTING  
REIMBURSEMENT FROM COS FOR FUNDS EXPENDED OBO DEFENSE  
ORDER FOR THE DISBURSEMENT OF FUNDS TO DEFENSE CSL. J. DAVID NICK  
FOR FUNDS EXPENDED OBO DEFENSE

08/18/2006 DE 1  
REPORTER'S EXCERPT OF PROCEEDINGS

08/18/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Karen Stewart CLK: VL  
JURY TRIAL - 9TH DAY  
This cause comes on regularly this date for further jury trial  
pursuant to adjournment of August 17, 2006. At 10:16 a.m. Court  
convened out of the presence of the jury. Counsel J. David Nick  
present. Defendant present.  
Court and counsel discuss legal issues.  
At 10:20 a.m. jurors are brought into the Courtroom. All jurors  
are present.  
Charles McMenomey heretofore sworn resumes the stand and further  
testifies.  
Color Photograph is offered and received into evidence and marked  
Exhibit No. GG on behalf of the Defendant.  
Craig Flick is sworn and testifies on behalf of the People.  
Color Photograph is marked Exhibit No. 46 for Identification on  
behalf of the People.  
Box is offered and received into evidence and marked Exhibit  
No. 47 on behalf of the People.  
Box is offered and received into evidence and marked Exhibit  
No. 47-A on behalf of the People.  
Knife is offered and received into evidence and marked Exhibit  
No. 47-B on behalf of the People.  
Color Photograph is marked Exhibit No. 48 for Identification on  
behalf of the People.  
Color Photograph is marked Exhibit No. 49 for Identification on

MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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08/18/2006 DE 1 Courtroom Minutes of Department 1 (continued)

behalf of the People.

Color Photograph is marked Exhibit No. 50 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 51 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 52 for Identification on behalf of the People.

At 11:41 a.m. Court admonishes the jurors and declares the regular noon recess, whereby Court is adjourned until 1:15 p.m.

Out of the presence of the jury, Court and counsel remain in session. Defendant present.

Court and counsel discuss legal issues.

Court is adjourned at 11:45 a.m.

At 1:22 p.m. Court reconvenes. Counsel J. David Nick present.

Defendant present. All jurors are present.

Craig Flick heretofore sworn resumes the stand and further testifies.

Color Photograph is marked Exhibit No. 53 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 54 for Identification on behalf of the People.

Brown Bag is marked Exhibit No. 53-A for Identification on behalf of the People.

Shingle is marked Exhibit No. 53-B for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 55 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 56 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 57 for Identification on behalf of the People.

Brown Bag is marked Exhibit No. 53-C for Identification on behalf of the People.

Shingle is marked Exhibit No. 53-D for Identification on behalf of the People.

Brown Bag is marked Exhibit No. 54-A for Identification on behalf of the People.

Shingle is marked Exhibit No. 54-B for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 58 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 59 for Identification on behalf of the People.

Brown Bag is marked Exhibit No. 58-A for Identification on behalf of the People.

Shingle is marked Exhibit No. 58-B for Identification on behalf of the People.

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08/18/2006 DE 1 Courtroom Minutes of Department 1 (continued)

Brown Bag is marked Exhibit No. 54-C for Identification on behalf of the People.

White Box is marked Exhibit No. 54-D for Identification on behalf of the People.

Black Box is marked Exhibit No. 54-E for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 60 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 61 for Identification on behalf of the People.

Brown Bag is marked Exhibit No. 60-A for Identification on behalf of the People.

Shingle is marked Exhibit No. 60-B for Identification on behalf of the People.

Brown Bag is marked Exhibit No. 60-C for Identification on behalf of the People.

White Box is marked Exhibit No. 60-D for Identification on behalf of the People.

Black Box is marked Exhibit No. 60-E for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 62 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 63 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 64 for Identification on behalf of the People.

Brown Bag is marked Exhibit No. 64-A for Identification on behalf of the People.

White Box is marked Exhibit No. 64-B for Identification on behalf of the People.

Black Box is marked Exhibit No. 64-C for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 65 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 66 for Identification on behalf of the People.

Brown Bag is marked Exhibit No. 66-A for Identification on behalf of the People.

Brown Bag is marked Exhibit No. 66-B for Identification on behalf of the People.

Olive Oil Bottle is marked Exhibit No. 66-C for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 67 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 68 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 69 for Identification on

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08/18/2006 DE 1 Courtroom Minutes of Department 1 (continued)

behalf of the People.

Brown Bag is marked Exhibit No. 69-A for Identification on behalf of the People.

White Box is marked Exhibit No. 69-B for Identification on behalf of the People.

Black Box is marked Exhibit No. 69-C for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 69-D for Identification on behalf of the People.

Brown Bag is marked Exhibit No. 21-D for Identification on behalf of the People.

Small Manila Envelope is marked Exhibit No. 21-E for Identification on behalf of the People.

Black Box is marked Exhibit No. 21-F for Identification on behalf of the People.

Brown Bag is marked Exhibit No. 35-A for Identification on behalf of the People.

Small Manila Envelope is marked Exhibit No. 35-B for Identification on behalf of the People.

Black Box is marked Exhibit No. 35-C for Identification on behalf of the People.

Brown Bag is marked Exhibit No. 32-A for Identification on behalf of the People.

Small Manila Envelope is marked Exhibit No. 32-B for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 70 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 71 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 72 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 73 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 74 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 75 for Identification on behalf of the People.

Brown Bag Containing Paper With Blood is marked Exhibit No. 73-A for Identification on behalf of the People.

Brown Bag Containing Paper With Blood is marked Exhibit No. 74-A for Identification on behalf of the People.

Brown Bag Containing Phone Receiver is marked Exhibit No. 75-A for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 76 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 35-D for Identification on behalf of the People.



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08/18/2006 DE 1 Courtroom Minutes of Department 1 (continued)

Black Box is marked Exhibit No. 32-C for Identification on behalf of the People.

At 2:45 p.m. Court declares a break.

At 3:05 p.m. Court reconvenes. Counsel J. David Nick present.

Defendant present. All jurors are present.

Craig Flick heretofore sworn resumes the stand and further testifies.

Color Photograph is marked Exhibit No. 77 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 78 for Identification on behalf of the People.

Brown Bag is marked Exhibit No. 78-A for Identification on behalf of the People.

White Box is marked Exhibit No. 78-B for Identification on behalf of the People.

Black Box is marked Exhibit No. 78-C for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 79 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 80 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 81 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 82 for Identification on behalf of the People.

Brown Bag is marked Exhibit No. 81-A for Identification on behalf of the People.

White Box is marked Exhibit No. 81-B for Identification on behalf of the People.

Black Box is marked Exhibit No. 81-C for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 83 for Identification on behalf of the People.

White Tee Shirt In Plexiglas is marked Exhibit No. 84 for Identification on behalf of the People.

Large Manila Envelope is marked Exhibit No. 85 for Identification on behalf of the People.

X-Ray is marked Exhibit No. 85-A for Identification on behalf of the People.

Brown Bag is marked Exhibit No. 85-B for Identification on behalf of the People.

White Box is marked Exhibit No. 85-C for Identification on behalf of the People

Small Manila Envelope is marked Exhibit No. 85-D for Identification on behalf of the People.

Manila Envelope Containing X-Rays is marked Exhibit No. 86 for Identification on behalf of the People.



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08/18/2006 DE 1 Courtroom Minutes of Department 1 (continued)

Brown Bag is marked Exhibit No. 87 for Identification on behalf of the People.

Small Manila Envelope is marked Exhibit No. 87-A for Identification on behalf of the People.

Black Box is offered and received into evidence and marked Exhibit No. 87-B on behalf of the People.

Exhibit No. 21-F heretofore marked for Identification is offered and received into evidence and bears the same mark.

Blue Shirt In Plexiglas is marked Exhibit No. 88 for Identification on behalf of the People.

Red Shirt In Plexiglas is marked Exhibit No. 89 for Identification on behalf of the People.

Brown Bag Containing Folder is marked Exhibit No. 90 for Identification on behalf of the People.

Brown Bag is marked Exhibit No. 91 for Identification on behalf of the People.

White Box is marked Exhibit No. 91-A for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 91-B for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 92 for Identification on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. HH on behalf of the Defendant.

Color Photograph is offered and received into evidence and marked Exhibit No. II on behalf of the Defendant.

Color Photograph is offered and received into evidence and marked Exhibit No. JJ on behalf of the Defendant.

Color Photograph is offered and received into evidence and marked Exhibit No. KK on behalf of the Defendant.

Color Photograph is offered and received into evidence and marked Exhibit No. LL on behalf of the Defendant.

Color Photograph is offered and received into evidence and marked Exhibit No. MM on behalf of the Defendant.

Color Photograph is offered and received into evidence and marked Exhibit No. NN on behalf of the Defendant.

Color Photograph is offered and received into evidence and marked Exhibit No. OO on behalf of the Defendant.

Exhibit(s) 46, 48-92 plus all sub-parts, and DD heretofore marked for Identification are offered and received into evidence and bear the same mark.

At 4:39 p.m. Court admonishes the jury and jurors are excused until Tuesday, August 22, 2006 at 10:00 a.m. in Department One.

CONTINUED TO - 08/22/2006 at 10:00am 1, JURY TRIAL

MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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08/18/2006 DE 1

DEFENDANT'S SUPPLEMENTAL CONFIDENTIAL APPLICATION FOR CRT. FUNDS FOR DEF. FOOTWEAR IMPRESSION EXPERT WILLIAM J. BODZIAK FOR AN ORDER FOR THE DISBURSEMENT OF FUNDS FOR DEF. FOOTWEAR IMPRESSION EXPERT, WILLIAM J. BODZIAK OF BODZIAK FORENSICS FOR INDIGENT DEFT. CONFIDENTIAL SUPPLEMENTAL APPLICATION FOR COURT FUNDS FOR DEFENSE EXPERT GREGG STUTCHMAN FOR AN INDIGENT DEFENDANT ORDER FOR THE DISBURSEMENT OF FUNDS FOR DEFENSE EXPERT GREGG STUTCHMAN FOR AN INDIGENT DEFENDANT.

08/22/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Barrie Hart CLK: VL JURY TRIAL - 10TH DAY

This cause comes on regularly this date for further jury trial pursuant to adjournment of August 18, 2006. At 10:02 a.m. Court convened out of the presence of the jury. Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

At 10:09 a.m. jurors are brought into the Courtroom. All jurors are present.

Alan DeiRossi is sworn and testifies on behalf of the People.

Color Photograph is marked Exhibit No. 93 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 94 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 95 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 96 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 97 for Identification on behalf of the People.

Diagram is marked Exhibit No. 98 for Identification on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. PP on behalf of the Defendant.

Color Photograph is offered and received into evidence and marked Exhibit No. QQ on behalf of the Defendant.

Exhibit(s) 93-98 heretofore marked for Identification are offered and received into evidence and bear the same mark.

Joanne Marie Rawson is sworn and testifies on behalf of the People. Stipulation Announced, Both Sides Agree, And The Court So Orders.

At 11:35 a.m. Court admonishes the jury and jurors are excused until August 23, 2006 at 10:45 a.m. in Department One.

Out of the presence of the jury, Court and counsel remain in session. Defendant present.

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08/22/2006 DE 1 Courtroom Minutes of Department 1 (continued)

Court and counsel discuss legal issues.

Court is adjourned at 11:37 p.m.

CONTINUED TO - 08/23/2006 at 10:45am 1, JURY TRIAL

08/23/2006 DE 1

SUBPOENED RECORDS REC-MONTGOMERY HIGH SCHOOL

SUBPOENED RECORDS REC-SLATER MIDDLE SCHOOL-2 SETS

DEFT'S MEMORANDUM REGARDING THE ADMISSIBILITY OF OUT OF CRT.

STATEMENTS TO SHOW BASIS FOR INVESTIGATING OFFICERS' ACTIONS

MTN. IN LIMINE TO ADMIT EVIDENCE OF MR. HEMENWAY'S FELONY

CONVICTION AND HIS CHARACTER FOR UNTRUTHFULNESS

DROPPED FROM CALENDAR - 08/23/2006 at 10:45am 1

08/23/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Barrie Hart CLK: VL  
URY TRIAL - 11TH DAY

This cause comes on regularly this date for further jury trial pursuant to adjournment of August 22, 2006. At 10:44 a.m. Court convened out of the presence of the jury. Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

At 10:46 a.m. jurors are brought into the Courtroom. All jurors are present.

Zan Sterling is sworn and testifies on behalf of the People.

Darrin Brown is sworn and testifies on behalf of the People.

4473 Form is marked Exhibit No. 99 for Identification on behalf of the People.

Receipt is marked Exhibit No. 100 for Identification on behalf of the People.

Rifle is marked Exhibit No. 101 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. RR for Identification on behalf of the People.

Box is marked Exhibit No. 101-A for Identification on behalf of the People.

At 11:47 a.m. Court admonishes the jurors and declares the regular noon recess, whereby Court is adjourned until 1:00 p.m.

At 1:01 p.m. Court reconvenes out of the presence of the jury.

Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

At 1:06 p.m. jurors are brought into the Courtroom. All jurors are present.

Board is marked Exhibit No. 102 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 102-A for Identification on behalf of the People.

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08/23/2006 DE 1 Courtroom Minutes of Department 1 (continued)

Color Photograph is marked Exhibit No. 102-B for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 102-C for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 102-D for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 102-E for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 102-F for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 102-G for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 102-H for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 102-I for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 102-J for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 102-K for Identification on behalf of the People.

DVD is marked Exhibit No. 103 for Identification on behalf of the People.

Transcript is marked Exhibit No. 103-A for Identification on behalf of the People.

Exhibit No. RR heretofore marked for Identification is offered and received into evidence and bears the same mark.

Counsel stipulate that the Court Reporter need not transcribe the listening of the tape.

At 1:12 p.m. Court, counsel and jurors commence listening to the testimony of William A. McMahon.

At 1:48 p.m. Court declares a break.

At 2:00 p.m. Court reconvenes. Counsel J. David Nick present. Defendant present. All jurors are present.

Court, counsel and jurors resume listening to the testimony of William A. McMahon.

At 2:12 p.m. Court declares a break.

At 2:25 p.m. Court reconvenes. Counsel J. David Nick present. Defendant present. All jurors are present.

Court, counsel and jurors resume listening to the testimony of William A. McMahon.

At 2:50 p.m. Court, counsel and jurors conclude listening to the testimony of William A. McMahon.

Charles A. Marcum is sworn and testifies on behalf of the People.

At 3:39 p.m. Court declares a break.

At 3:55 p.m. Court reconvenes out of the presence of the jury.

Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

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08/23/2006 DE 1 Courtroom Minutes of Department 1 (continued)

At 4:05 p.m. jurors are brought into the Courtroom. All jurors are present.

Charles A. Marcum heretofore sworn resumes the stand and further testifies.

At 4:38 p.m. Court admonishes the jury and jurors are excused until August 24, 2006 at 10:30 a.m. in Department One.

CONTINUED TO - 08/24/2006 at 10:30am 1, JURY TRIAL

08/24/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Barrie Hart CLK: VL  
JURY TRIAL - 12TH DAY

This cause comes on regularly this date for further jury trial pursuant to adjournment of August 23, 2006. At 10:43 a.m. Court convened out of the presence of the jury. Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

At 10:45 a.m. jurors are brought into the Courtroom. All jurors are present.

Charles A. Marcum heretofore sworn resumes the stand and further testifies.

Copy Of Transcript is marked Exhibit No. SS for Identification on behalf of the Defendant.

Copy Of Transcript is marked Exhibit No. TT for Identification on behalf of the Defendant.

At 12:01 p.m. Court admonishes the jurors and declares the regular noon recess, whereby Court is adjourned until 1:30 p.m.

At 1:30 p.m. Court reconvenes. Counsel J. David Nick present. Defendant present. All jurors are present.

Dr. Brian Peterson is sworn and testifies on behalf of the People. Color Photograph is marked Exhibit No. 104 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 105 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 106 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 107 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 108 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 109 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 110 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 111 for Identification on behalf of the People.

Certified Copy Of Death Certificate is offered and received into

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08/24/2006 DE 1 Courtroom Minutes of Department 1 (continued)

evidence and marked Exhibit No. 112 on behalf of the People.  
Certified Copy Of Death Certificate is offered and received into  
evidence and marked Exhibit No. 113 on behalf of the People.  
Diagram is marked Exhibit No. 114 for Identification on behalf of  
the People.  
Diagram is marked Exhibit No. 115 for Identification on behalf of  
the People.  
Diagram is marked Exhibit No. 116 for Identification on behalf of  
the People.  
Diagram is marked Exhibit No. 117 for Identification on behalf of  
the People.  
Diagram is marked Exhibit No. 118 for Identification on behalf of  
the People.  
At 2:38 p.m. Court declares a break.  
At 2:58 p.m. Court reconvenes. Counsel J. David Nick present.  
Defendant present. All jurors are present.  
Brady Lee Gatewood is sworn and testifies on behalf of the People.  
Sandor Martin Bogdon is sworn and testifies on behalf of the  
People.  
At 4:07 p.m. Court declares a break.  
At 4:16 p.m. Court reconvenes out of the presence of the jury.  
Counsel J. David Nick present. Defendant present.  
Court and counsel discuss legal issues.  
At 4:18 p.m. jurors are brought into the Courtroom. All jurors  
are present.  
Jerald Robinson is sworn and testifies on behalf of the People.  
At 4:35 p.m. Court admonishes the jury and jurors are excused  
until August 25, 2006 at 10:00 a.m. in Department One.  
Out of the presence of the jury, Court and counsel remain in  
session. Defendant present.  
Court and counsel discuss legal issues.  
Court is adjourned at 4:40 p.m.  
CONTINUED TO - 08/25/2006 at 10:00am 1, JURY TRIAL

08/25/2006 DE 1

SUBPOENED RECORDS\_REC-BOHEMIAN GROVE-2 SETS  
SUBPOENED RECORDS\_REC-CINGULAR-2 SETS

08/25/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Barrie Hart CLK: VL  
JURY TRIAL - 13TH DAY  
This cause comes on regularly this date for further jury trial  
pursuant to adjournment of August 24, 2006. At 10:11 a.m. Court  
convened out of the presence of the jury. Counsel J. David Nick  
present. Defendant present.  
Court and counsel discuss legal issues.



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08/25/2006 DE 1 Courtroom Minutes of Department 1 (continued)

At 10:14 a.m. jurors are brought into the Courtroom. All jurors are present.

Jerald Robinson heretofore sworn resumes the stand and further testifies.

Diagram is marked Exhibit No. 119 for Identification on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 120 on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 121 on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 122 on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 123 on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 124 on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 125 on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 126 on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 127 on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 128 on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 129 on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 130 on behalf of the People.

Manila Envelope is offered and received into evidence and marked Exhibit No. 131 on behalf of the People.

Clear Plastic Bag is offered and received into evidence and marked Exhibit No. 131-A on behalf of the People.

Belt Buckle is offered and received into evidence and marked Exhibit No. 131-B on behalf of the People.

Clear Plastic Bag is marked Exhibit No. 132 for Identification on behalf of the People.

White Box is offered and received into evidence and marked Exhibit No. 133 on behalf of the People.

White Box is offered and received into evidence and marked Exhibit No. 134 on behalf of the People.

White Box is offered and received into evidence and marked Exhibit No. 135 on behalf of the People.

White Box is offered and received into evidence and marked Exhibit No. 136 on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. UU on behalf of the Defendant.

Color Photograph is offered and received into evidence and marked



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SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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08/25/2006 DE 1 Courtroom Minutes of Department 1 (continued)

Exhibit No. VV on behalf of the Defendant.

Color Photograph is offered and received into evidence and marked

Exhibit No. WW on behalf of the Defendant.

Color Photograph is offered and received into evidence and marked

Exhibit No. XX on behalf of the Defendant.

Color Photograph is offered and received into evidence and marked

Exhibit No. YY on behalf of the Defendant.

Color Photograph is offered and received into evidence and marked

Exhibit No. ZZ on behalf of the Defendant.

Color Photograph is offered and received into evidence and marked

Exhibit No. AAA on behalf of the Defendant.

Color Photograph is offered and received into evidence and marked

Exhibit No. BBB on behalf of the Defendant.

Color Photograph is offered and received into evidence and marked

Exhibit No. CCC on behalf of the Defendant.

Color Photograph is offered and received into evidence and marked

Exhibit No. DDD on behalf of the Defendant.

Exhibit(s) 104-118; 114-118 heretofore marked for Identification

are offered and received into evidence and bear the same mark.

Lloyd Strecker is sworn and testifies on behalf of the People.

At 12:00 p.m. Court admonishes the jurors and declares the regular noon recess, whereby Court is adjourned until 1:00 p.m.

At 1:32 p.m. Court reconvenes out of the presence of the jury.

Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

At 1:41 p.m. jurors are brought into the Courtroom. All jurors are present.

Russell Loren Davidson is sworn and testifies on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 137 on behalf of the People.

Exhibit(s) No. 10, 12, 13, 40, 38, 36, 37, 16, 31, 18, 17, 119 and 39 heretofore marked for Identification are offered and received into evidence and bear the same mark.

Color Photograph is offered and received into evidence and marked Exhibit No. 138 on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 139 on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 140 on behalf of the People.

At 2:47 p.m. Court declares a break.

At 3:13 p.m. Court reconvenes. Counsel J. David Nick present. Defendant present. All jurors are present.

Russell Loren Davidson heretofore sworn resumes the stand and further testifies.

Color Photograph is offered and received into evidence and marked Exhibit No. 141 on behalf of the People.

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08/25/2006 DE 1 Courtroom Minutes of Department 1 (continued)

Color Photograph is offered and received into evidence and marked Exhibit No. 142 on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 143 on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 144 on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 145 on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 146 on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 147 on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 148 on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 149 on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 150 on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 151 on behalf of the People.

Color Photograph is marked Exhibit No. 152 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 153 for Identification on behalf of the People.

Exhibit(s) 22 and 23 heretofore marked for Identification are offered and received into evidence and bear the same mark.

Color Photograph is offered and received into evidence and marked Exhibit No. 154 on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 155 on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 156 on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 157 on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 158 on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 159 on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 160 on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 161 on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 162 on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 163 on behalf of the People.

Color Photograph is offered and received into evidence and marked

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08/25/2006 DE 1 Courtroom Minutes of Department 1 (continued)

Exhibit No. 164 on behalf of the People.

Color Photograph is marked Exhibit No. 165 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 166 for Identification on behalf of the People.

Brown Bag is marked Exhibit No. 167 for Identification on behalf of the People.

Copy Of Phone Records are offered and received into evidence and marked Exhibit No. 168 on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 169 on behalf of the People.

Color Photograph is marked Exhibit No. 170 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 171 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 172 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 173 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 174 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 175 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 176 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 177 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 178 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 179 for Identification on behalf of the People.

At 4:30 p.m. Court admonishes the jury and jurors are excused until April 29, 2006 at 10:00 a.m. in Department One.

CONTINUED TO - 08/29/2006 at 10:00am 1, JURY TRIAL

08/25/2006 DE 1

PEOPLE'S OPPOSITION TO DEFTS MTN. IN LIMINE TO ADMIT EVIDENCE OF MR. HEMENWAY'S FELONY CONVICTION AND HIS CHARACTER FOR UNTRUTHFULNESS

08/28/2006 DE 1

REPORTER'S EXCERPT OF PROCEEDINGS (8-3-2006)

REPORTER'S EXCERPT OF PROCEEDINGS THURSDAY, AUGUST 3, 2006

MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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08/29/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Karen Stewart CLK: VL  
JURY TRIAL - 14TH DAY

This cause comes on regularly this date for further jury trial pursuant to adjournment of Augus 25, 2006. At 10:00 a.m. Court convened out of the presence of the jury. Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

At 10:03 a.m. jurors are brought into the Courtroom. All jurors are present.

Russell Loren Davidson heretofore sworn resumes the stand and further testifies.

Exhibit(s) 170-178 heretofore marked for Identification are offered and received into evidence and bear the same mark.

Color Photograph is marked Exhibit No. 180 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 181 for Identification on behalf of the People.

Diagram is offered and received into evidence and marked Exhibit No. EEE on behalf of the Defendant.

Color Photograph is marked Exhibit No. FFF for Identification on behalf of the Defendant.

Color Photograph is offered and received into evidence and marked Exhibit No. GGG on behalf of the Defendant.

Color Photograph is offered and received into evidence and marked Exhibit No. HHH on behalf of the Defendant.

Copy Of Sun & Moon Data is offered and received into evidence and marked Exhibit No. III on behalf of the Defendant.

At 12:01 p.m. Court admonishes the jurors and declares the regular noon recess, whereby Court is adjourned until 1:30 p.m.

At 1:33 p.m. Court reconvenes out of the presence of the jury.

Counsel J. David Nick present. Defendant present.

Also present in Court is witness Brett McKibbin.

Following discussion with Ms. Gomez, Court finds that the witness has complied with the Florida order.

Court and counsel discuss legal issues.

At 1:39 p.m. jurors are brought into the Courtroom. All jurors are present.

Russell Loren Davidson heretofore sworn resumes the stand and further testifies.

Brown Paper Bag is marked Exhibit No. JJJ for Identification on behalf of the Defendant.

Brown Paper Bag is marked Exhibit No. KKK for Identification on behalf of the Defendant.

Brown Paper Bag is marked Exhibit No. LLL for Identification on behalf of the Defendant.

Brown Paper Bag is marked Exhibit No. MMM for Identification on

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08/29/2006 DE 1 Courtroom Minutes of Department 1 (continued)

behalf of the Defendant.

Brown Paper Bag is marked Exhibit No. NNN for Identification on behalf of the People.

Brown Paper Bag is marked Exhibit No. OOO for Identification on behalf of the Defendant.

Brown Paper Bag is marked Exhibit No. PPP for Identification on behalf of the Defendant.

Brown Paper Bag is marked Exhibit No. 182 for Identification on behalf of the People.

Brown Paper Bag is marked Exhibit No. 183 for Identification on behalf of the People.

Copy Of Weather Station Log is marked Exhibit No. 184 for Identification on behalf of the People.

WestAmerica Bank Statement is marked Exhibit No. 185 for Identification on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 186 on behalf of the People.

Color Photograph is marked Exhibit No. 187 for Identification on behalf of the People.

At 3:01 p.m. Court declares a break.

At 3:22 p.m. Court reconvenes. Counsel J. David Nick present. Defendant present. All jurors are present.

Russell Loren Davidson heretofore sworn resumes the stand and further testifies.

Stipulation Announced, Both Sides Agree, And The Court So Orders.

Trevor Craig Sikes is sworn and testifies on behalf of the People.

James Larry Lewis, Sr. sworn and testifies on behalf of the People.

Copy Of Color Photograph is offered and received into evidence and marked Exhibit No. QQQ on behalf of the Defendant.

Copy Of Color Photograph is offered and received into evidence and marked Exhibit No. RRR on behalf of the Defendant.

Color Photograph is marked Exhibit No. 188 for Identification on behalf of the People.

Color Photograph is marked Exhibit No. 189 for Identification on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. SSS on behalf of the Defendant.

At 4:35 p.m. Court admonishes the jury and jurors are excused until August 30, 2006 at 9:45 a.m. in Department One.

CONTINUED TO - 08/30/2006 at 9:45am 1, JURY TRIAL

MCR-443363 ✓ SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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08/30/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Karen Stewart CLK: VL  
JURY TRIAL - 15TH DAY

This cause comes on regularly this date for further jury trial pursuant to adjournment of August 29, 2006. At 10:00 a.m. Court convened out of the presence of the jury. Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

At 10:01 a.m. Court is adjourned.

At 10:06 a.m. Court reconvenes out of the presence of the jury. Counsel J. David Nick present. Defendant present.

Court conducts a 402 hearing.

Tom L. Porter is sworn and testifies out of the presence of the jury on behalf of the People.

At 10:42 a.m. Mr. Porter exits the Courtroom.

Court and counsel discuss legal issues.

Following discussion with counsel, Court orders that Mr. Porter will not be able to testify in this matter for reasons stated in open Court.

At 10:49 a.m. jurors are brought into the Courtroom. All jurors are present.

Brett A. McKibbin is sworn and testifies on behalf of the People. Copy Of Photograph is marked Exhibit No. TTT for Identification on behalf of the Defendant.

At 12:10 p.m. Court admonishes the jurors and declares the regular noon recess, whereby Court is adjourned until 1:30 p.m.

At 1:28 p.m. Court reconvenes out of the presence of the jury.

Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

Mr. Nick on behalf of the Defendant moves for a mistrial and that double jeopardy attaches.

Ms. Gomez on behalf of the People objects and addresses the Court.

Following discussion with counsel, Court DENIES the motion for mistrial for reasons stated in open Court.

At 1:39 p.m. jurors are brought into the Courtroom. All jurors are present.

Brett A. McKibbin heretofore sworn resumes the stand and further testifies.

Copy Of Summons is marked Exhibit No. 190 for Identification on behalf of the People.

Noah Michael Sandhoff is sworn and testifies on behalf of the People.

At 2:39 p.m. Court declares a break.

At 3:02 p.m. Court reconvenes. Counsel J. David Nick present.

Defendant present. All jurors are present.

Noah Michael Sandhoff heretofore sworn resumes the stand and further testifies.



MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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08/30/2006 DE 1 Courtroom Minutes of Department 1 (continued)

John Douglas Yount is sworn and testifies on behalf of the People.

Black & White Photograph is marked Exhibit No. 191 for Identification on behalf of the People.

Black & White Photograph is marked Exhibit No. 192 for Identification on behalf of the People.

Black & White Photograph is marked Exhibit No. 193 for Identification on behalf of the People.

Black & White Photograph is marked Exhibit No. 194 for Identification on behalf of the People.

Black & White Photograph is marked Exhibit No. 195 for Identification on behalf of the People.

Black & White Photograph is marked Exhibit No. 196 for Identification on behalf of the People.

Black & White Photograph is marked Exhibit No. 197 for Identification on behalf of the People.

Black & White Photograph is marked Exhibit No. 198 for Identification on behalf of the People.

Black & White Photograph is marked Exhibit No. 199 for Identification on behalf of the People.

Black & White Photograph is marked Exhibit No. 200 for Identification on behalf of the People.

Black & White Photograph is marked Exhibit No. 201 for Identification on behalf of the People.

Black & White Photograph is marked Exhibit No. 202 for Identification on behalf of the People.

Diagram is marked Exhibit No. 203 for Identification on behalf of the People.

At 4:26 p.m. Court admonishes the jury and jurors are excused until August 31, 2006 at 10:00 a.m. in Department One.

CONTINUED TO - 08/31/2006 at 10:00am 1, JURY TRIAL

08/31/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Karen Stewart CLK: VL  
JURY TRIAL - 16TH DAY

This cause comes on regularly this date for further jury trial pursuant to adjournment of August 30, 2006. At 10:02 a.m. Court convened. Counsel J. David Nick present. Defendant present.

All jurors are present.

John Douglas Yount heretofore sworn resumes the stand and further testifies.

Photograph Of Complete SKS Weapon is marked Exhibit No. UUU for Identification on behalf of the Defendant.

Patch is marked Exhibit No. 101-B for Identification on behalf of the People.

Patch is marked Exhibit No. 101-C for Identification on behalf of the People.



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08/31/2006 DE 1 Courtroom Minutes of Department 1 (continued)

Patch is marked Exhibit No. 101-D for Identification on behalf of the People.

Donna Mambretti is sworn and testifies on behalf of the People.

At 12:03 p.m. Court admonishes the jurors and declares the regular noon recess, whereby Court is adjourned until 1:30 p.m.

At 1:30 p.m. Court reconvenes out of the presence of the jury.

Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

At 1:33 p.m. jurors are brought into the Courtroom. All jurors are present.

Bradford Burke is sworn and testifies on behalf of the People.

Tyson McLain is sworn and testifies on behalf of the People.

At 2:47 p.m. Court declares a break.

Out of the presence of the jury, Court and counsel remain in session. Defendant present.

Court and counsel discuss legal issues.

Court is adjourned at 2:48 p.m.

At 3:12 p.m. Court reconvenes. Counsel J. David Nick present.

Defendant present. All jurors are present.

Tyson McLain heretofore sworn resumes the stand and further testifies.

Copy Of Order For Probation is marked Exhibit No. VVV for Identification on behalf of the Defendant.

Box Containing Mannequin is marked Exhibit No. WWW for Identification on behalf of the Defendant.

At 4:21 p.m. Court admonishes the jury and jurors are excused until September 1, 2006 at 10:00 a.m. in Department One.

Out of the presence of the jury, Court and counsel remain in session. Defendant present.

Court and counsel discuss legal issues.

Court is adjourned at 4:26 p.m.

CONTINUED TO - 09/01/2006 at 10:00am 1, JURY TRIAL

08/31/2006 DE 1

DEFT'S SUPPLEMENTAL CONFIDENTIAL APPLICATION FOR COURT FUNDS FOR DEFENSE FORENSIC CHEMICAL ENGINEER SPECIALIZING IN PAINTS, A.  
 DEFT'S SUPPLEMENTAL CONFIDENTIAL APPLICATION FOR COURT FUNDS FOR DEFENSE FORENSIC CHEMICAL ENGINEER, SPECIALIZING IN PAINTS, A.  
 ORDER FOR THE DISBURSEMENT OF FUNDS FOR DEFENSE FORENSIC CHEMICAL ENGINEER, A. ANDREW SHORES FOR INDIGENT DEFT. (FILED UNDER SEAL)  
 ORDER FOR THE DISBURSEMENT OF FUNDS FOR DEFENSE EXPERT GREGG STUTCHMAN OF STUTCHMAN FORENSIC LAB. FOR AN INDIGENT DEFT.  
 DEFT'S SUPPLEMENTAL CONFIDENTIAL APPLICATION FOR COURT FUNDS FOR RESEARCH MICROSCOPIST, WM. CHAPIN OF MCCRONE & ASSOCIATES FOR AN

MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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09/01/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Karen Stewart CLK: VL  
JURY TRIAL - 17TH DAY

This cause comes on regularly this date for further jury trial pursuant to adjournment of August 31, 2006. At 10:07 a.m. Court convened out of the presence of the jury. Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

At 10:13 a.m. jurors are brought into the Courtroom. All jurors are present.

Tyson McLain heretofore sworn resumes the stand and further testifies.

At 11:54 a.m. Court admonishes the jurors and declares the regular noon recess, whereby Court is adjourned until 1:30 p.m.

Out of the presence of the jury, Court and counsel remain in session. Defendant present.

Court and counsel discuss legal issues.

Court is adjourned at 12:08 p.m.

At 1:30 p.m. Court reconvenes out of the presence of the jury.

Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

At 1:40 p.m. jurors are brought into the Courtroom. All jurors are present.

Tyson McLain heretofore sworn resumes the stand and further testifies.

Copy Of TimeSheet is marked Exhibit No. XXX for Identification on behalf of the Defendant.

At 2:50 p.m. Court declares a break.

At 3:06 p.m. Court reconvenes out of the presence of the jury.

Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

At 3:11 p.m. jurors are brought into the Courtroom. All jurors are present.

Tyson McLain heretofore sworn resumes the stand and further testifies.

At 3:42 p.m. Court admonishes the jury and jurors are excused until Tuesday, September 5, 2006 at 1:30 p.m. in Department One.

CONTINUED TO - 09/05/2006 at 1:30pm 1, JURY TRIAL

09/01/2006 DE 1

PEOPLE'S P&A REGARDING THE ADMISSIBILITY OF SELF-SERVING HEARSAY

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09/05/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: B L Peterson CLK: VL  
JURY TRIAL - 18TH DAY

This cause comes on regularly this date for further jury trial pursuant to adjournment of September 1, 2006. At 1:31 p.m. Court convened out of the presence of the jury. Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

At 1:40 p.m. jurors are brought into the Courtroom. All jurors are present.

Tyson McLain heretofore sworn resumes the stand and further testifies.

At 2:46 p.m. Court declares a break.

Out of the presence of the jury, Court and counsel remain in session. Defendant present.

Court and counsel discuss legal issues.

Court is adjourned at 2:50 p.m.

At 3:12 p.m. Court reconvenes. Counsel J. David Nick present.

Defendant present. All jurors are present.

Tyson McLain heretofore sworn resumes the stand and further testifies.

At 3:24 p.m. Court declares a break.

At 3:35 p.m. Court reconvenes. Counsel J. David Nick present.

Defendant present. All jurors are present.

William J. Bodziak is sworn and testifies out of order on behalf of the Defendant.

Copy Of 1998 Catalog is marked Exhibit No. YYY for Identification on behalf of the Defendant.

Copy Of 1997 Catalog is marked Exhibit No. ZZZ for Identification on behalf of the Defendant.

At 4:30 p.m. Court admonishes the jury and jurors are excused until September 6, 2006 at 10:15 a.m. in Department One.

CONTINUED TO - 09/06/2006 at 10:15am 1, JURY TRIAL

09/06/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Barrie Hart CLK: VL  
JURY TRIAL - 19TH DAY

This cause comes on regularly this date for further jury trial pursuant to adjournment of September 5, 2006. At 10:15 a.m. Court convened out of the presence of the jury. Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

At 10:32 a.m. jurors are brought into the Courtroom. All jurors are present.

Kathryn Ellen Corbell is sworn and testifies on behalf of the People.

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09/06/2006 DE 1 Courtroom Minutes of Department 1 (continued)

Copy Of Photograph is marked Exhibit No. 204 for Identification on behalf of the People.

Copy Of Photograph is marked Exhibit No. 205 for Identification on behalf of the People.

Copy Of Photograph is marked Exhibit No. 206 for Identification on behalf of the People.

Michael Christopher Craig sworn and testifies on behalf of the People.

At 11:30 a.m. Court declares a break.

At 11:36 a.m. Court reconvenes. Counsel J. David Nick present. Defendant present. All jurors are present.

Michael Christopher Craig heretofore sworn resumes the stand and further testifies.

Copy Of Firearms Transaction Record is marked Exhibit No. AAAA for Identification on behalf of the Defendant.

At 12:03 p.m. Court admonishes the jurors and declares the regular noon recess, whereby Court is adjourned until 1:30 p.m.

At 1:35 p.m. Court reconvenes out of the presence of the jury.

Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

At 1:42 p.m. jurors are brought into the Courtroom. All jurors are present.

Deborah Ann Becker is sworn and testifies on behalf of the People.

Color Photograph is offered and received into evidence and marked Exhibit No. 207 on behalf of the People.

At 2:48 p.m. Court declares a break.

Out of the presence of the jury, Court and counsel remain in session. Defendant present.

Court and counsel discuss legal issues.

Court is adjourned at 2:51 p.m.

At 3:13 p.m. Court reconvenes. Counsel J. David Nick present.

Defendant present. All jurors are present.

Deborah Ann Becker heretofore sworn resumes the stand and further testifies.

At 3:35 p.m., clerk is K. Allen

Black Binder is marked Exhibit No. BBBB for Identification on behalf of the Defendant.

At 4:10 p.m. Court declares a break.

At 4:15 p.m. Court reconvenes out of the presence of the jury.

Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

At 4:22 p.m. jurors return to the Courtroom. All jurors are present.

Deborah Ann Becker heretofore sworn resumes the stand and further testifies.

At 4:30 p.m. Court admonishes the jury and jurors are excused until September 7, 2006 at 10:00 a.m. in Department One.

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09/06/2006 DE 1 Courtroom Minutes of Department 1 (continued)

Out of the presence of the jury, Court and counsel remain in session. Defendant present.  
Court and counsel discuss legal issues.  
Court is adjourned at 4:45 p.m.

09/06/2006 DE 1

MTN. IN LIMINE TO ADMIT EVIDENCE OF MR. CAMACHO'S CRIMINAL CONDUCT THAT DID NOT RESULT IN A CONVICTION  
DEFT'S MTN. IN LIMINE TO EXCLUDE STATEMENTS MADE BY DEFT. TO ANY IN CUSTODY INFORMANT, SPECIFICALLY FRANCISCO CAMACHO AS SUCH

09/07/2006 DE 1

MTN TO RECONSIDER EXCLUSION OF EVIDENCE

09/07/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Barrie Hart CLK: VL  
JURY TRIAL - 20TH DAY  
This cause comes on regularly this date for further jury trial pursuant to adjournment of September 6, 2006. At 10:23 a.m. Court convened out of the presence of the jury. Counsel J. David Nick present. Defendant present.  
Court and counsel discuss legal issues.  
At 10:35 a.m. jurors are brought into the Courtroom. All jurors are present.  
Robin Riggs is sworn and testifies on behalf of the People.  
Plastic Bag is offered and received into evidence and marked Exhibit No. 208 on behalf of the People.  
Leather Pouch is offered and received into evidence and marked Exhibit No. 208-A on behalf of the People.  
3 Bullets are offered and received into evidence and marked Exhibit No. 208-B on behalf of the People.  
Tawnja Teresa Pfleuger is sworn and testifies on behalf of the People.  
Stephen Andrew Hildreth is sworn and testifies on behalf of the People.  
At 11:32 a.m. Court admonishes the jurors and declares the regular noon recess, whereby Court is adjourned until 1:30 p.m.  
Out of the presence of the jury, Court and counsel remain in session. Defendant present.  
Court and counsel discuss legal issues.  
Following discussion with counsel, Court tentatively schedules to view the scene on September 13, 2006 at 10:00 a.m.  
Court is adjourned at 11:57 a.m.  
At 1:31 p.m. Court reconvenes out of the presence of the jury. Counsel J. David Nick present. Defendant present.  
Court and counsel discuss legal issues.

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09/07/2006 DE 1 Courtroom Minutes of Department 1 (continued)

At 1:48 p.m. jurors are brought into the Courtroom. All jurors are present.

Gregory Perry Adair is sworn and testifies on behalf of the People.

Daniel T. Hemenway is sworn and testifies on behalf of the People.

At 3:00 p.m. Court declares a break.

At 3:23 p.m. Court reconvenes. Counsel J. David Nick present.

Defendant present. All jurors are present.

Daniel T. Hemenway heretofore sworn resumes the stand and further testifies.

At 4:37 p.m. Court admonishes the jury and jurors are excused until September 8, 2006 at 10:00 a.m. in Department One.

CONTINUED TO - 09/08/2006 at 10:00am 1, JURY TRIAL

09/07/2006 DE 1

PEOPLE'S P&A REGARDING THE PRESENTATION OF ARGUMENT DURING THE JURY VIEW OF THE CRIME SCENE

09/08/2006 DE 1

DROPPED FROM CALENDAR - 09/12/2006 at 10:00am 1

09/08/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: B L Peterson CLK: VL  
JURY TRIAL - 21ST DAY

This cause comes on regularly this date for further jury trial pursuant to adjournment of September 7, 2006. At 10:04 a.m.

Court convened out of the presence of the jury. Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

At 10:13 a.m. jurors are brought into the Courtroom. All jurors are present.

Daniel T. Hemenway heretofore sworn resumes the stand and further testifies.

Russell Loren Davidson heretofore sworn resumes the stand and further testifies.

Note From Jury is marked Court Exhibit No. 4.

At 11:56 a.m. Court admonishes the jurors and declares the regular noon recess, whereby Court is adjourned until 1:30 p.m.

At 1:33 p.m. Court reconvenes out of the presence of the jury.

Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

At 1:38 p.m. jurors are brought into the Courtroom. All jurors are present.

Russell Loren Davidson heretofore sworn resumes the stand and further testifies.

At 2:34 p.m. Court declares a break.

Out of the presence of the jury, Court and counsel remain in



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09/08/2006 DE 1 Courtroom Minutes of Department 1 (continued)

session. Defendant present.

Court and counsel discuss legal issues.

Court is adjourned at 2:40 p.m.

At 3:00 p.m. Court reconvenes. Counsel J. David Nick present.

Defendant present. All jurors present.

Jerald Robinson heretofore sworn resumes the stand and further testifies.

Peter Hackett is sworn and testifies on behalf of the People.

At 3:36 p.m. Court admonishes the jury and jurors are excused until September 12, 2006 at 10:00 a.m. in Department One.

Out of the presence of the jury, Court and counsel remain in session. Defendant present.

Court and counsel discuss legal issues.

At 3:55 p.m. Court is adjourned until Monday, September 11, 2006

at 3:00 p.m. in Department One for further proceedings.

CONTINUED TO - 09/11/2006 at 3:00pm 1, FURTHER PROCEEDINGS

CONTINUED TO - 09/12/2006 at 10:00am 1, JURY TRIAL

09/11/2006 DE 1

REPORTER'S EXCERPT OF PROCEEDINGS TESTIMONY OF JAMES LEWIS, SR.

8-29-2006

09/11/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Karen Stewart CLK: VL

This cause comes on regularly this date for further proceedings

pursuant to adjournment of September 8, 2006. At 3:54 p.m. Court

convened out of the presence of the jury. Counsel J. David Nick

present. Defendant present.

Court and counsel discuss legal issues.

At 4:25 p.m. Court is adjourned until September 12, 2006 at 11:00 a.m. in Department One.

09/12/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Karen Stewart CLK: VL

JURY TRIAL - 22ND DAY

This cause comes on regularly this date for further jury trial

pursuant to adjournment of September 8, 2006. At 11:05 a.m. Court

convened out of the presence of the jury. Counsel J. David Nick

present. Defendant present.

Court and counsel discuss legal issues.

At 12:00 p.m. Court declares the regular noon recess, whereby

Court is adjourned until 1:30 p.m.

At 1:32 p.m. Court reconvenes. Counsel J. David Nick present.

Defendant present. All jurors are present.

Raima Ballinger is sworn and testifies on behalf of the Defendant.



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09/12/2006 DE 1 Courtroom Minutes of Department 1 (continued)

Vance Eaton is sworn and testifies on behalf of the Defendant.

At 1:49 p.m. Court declares a break.

At 2:04 p.m. Court reconvenes out of the presence of the jury.

Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

At 2:07 p.m. jurors are brought into the Courtroom. All jurors are present.

Gregg Stutchman is sworn and testifies on behalf of the Defendant.

Court Exhibit No. 5 is hereby withdrawn and remarked Exhibit No.

CCCC for Identification on behalf of the Defendant.

Color Photograph is marked Exhibit No. DDDD for Identification on behalf of the Defendant.

Court Exhibit No. 2 is hereby withdrawn and remarked Exhibit No.

EEEE for Identification on behalf of the Defendant.

Court Exhibit No. 3 is hereby withdrawn and remarked Exhibit No.

FFFF for Identification on behalf of the Defendant.

Color Photograph is marked Exhibit No. GGGG for Identification on behalf of the Defendant.

Color Photograph is marked Exhibit No. HHHH for Identification on behalf of the Defendant.

Color Photograph is marked Exhibit No. IIII for Identification on behalf of the Defendant.

Color Photograph is marked Exhibit No. JJJJ for Identification on behalf of the Defendant.

Color Photograph is marked Exhibit No. KKKK for Identification on behalf of the Defendant.

Color Photograph is marked Exhibit No. LLLL for Identification on behalf of the Defendant.

Color Photograph is marked Exhibit No. MMMM for Identification on behalf of the Defendant.

Color Photograph is marked Exhibit No. NNNN for Identification on behalf of the Defendant.

Color Photograph is marked Exhibit No. OOOO for Identification on behalf of the Defendant.

Color Photograph is marked Exhibit No. PPPP for Identification on behalf of the Defendant.

Color Photograph is marked Exhibit No. QQQQ for Identification on behalf of the Defendant.

Color Photograph is marked Exhibit No. RRRR for Identification on behalf of the Defendant.

Color Photograph is offered and received into evidence and marked Exhibit No. SSSS on behalf of the Defendant.

Color Photograph is marked Exhibit No. TTTT for Identification on behalf of the Defendant.

Color Photograph is marked Exhibit No. UUUU for Identification on behalf of the Defendant.

Color Photograph is marked Exhibit No. VVVV for Identification on

MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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09/12/2006 DE 1 Courtroom Minutes of Department 1 (continued)

behalf of the Defendant.

Color Photograph is marked Exhibit No. WWWW for Identification on behalf of the Defendant.

At 3:32 p.m. Court declares a break.

At 3:51 p.m. Court reconvenes out of the presence of the jury.

Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

At 4:01 p.m. jurors are brought into the Courtroom. All jurors are present.

Gregg Stutchman heretofore sworn resumes the stand and further testifies.

Exhibit(s) CCCC-RRRR and TTTT-WWWW heretofore marked for Identification are offered and received into evidence and bear the same mark.

At 4:30 p.m. Court admonishes the jury and jurors are excused until September 13, 2006 at 10:00 a.m. in Department One (for viewing of the scene).

CONTINUED TO - 09/13/2006 at 10:00am 1, JURY TRIAL

09/13/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Karen Stewart CLK: VL  
JURY TRIAL - 23RD DAY

This cause comes on regularly this date for further jury trial pursuant to adjournment of September 12, 2006. At 11:00 a.m.

Court convenes out of the Courthouse. All jurors are present.

Counsel J. David Nick is present. Defendant is not present.

First stop for viewing is the McMahons house.

At 11:05 a.m. 2nd stop is at the crest of the hill showing the Rutledge cabin. At 11:23 a.m. 3rd stop is at Santa Clara for

viewing going up the crest of the hill. At 11:35 a.m. 4th stop is below the crest looking up at the red flags. At 11:36 a.m. 5th

stop is hillside where rifle, 2 shell casings and belt buckle were found. At 11:50 a.m. jurors, Court and counsel walk up the hill

to the intersection. At 11:51 a.m. Court, counsel and jurors are

shown where the flags were located. At 12:04 p.m. 6th stop is the top of the hill and Court, counsel and jurors walk down to Dante.

At 12:20 p.m. Court, counsel and jurors are brought up to the

crime scene and view the crime scene. At 12:25 p.m. jurors are

shown where the knife, shell casings and body were found. At

12:43 p.m. jurors are shown were photograph No. 148 was taken.

At 12:55 p.m. Court, counsel and jurors are brought to the

victims driveway and gate. At 1:00 p.m. Court, counsel and jurors are brought to the area below the property where the shell cassings

were found. At 1:05 p.m. jurors are shown were photographs GGGG

and RRRR were taken. At 1:22 p.m. Court, counsel and jurors are

brought to house of Charlie Marcum. Whereby viewing of the crime

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09/13/2006 DE 1 Courtroom Minutes of Department 1 (continued)

scene is completed.

At 3:19 p.m. Court reconvenes at the Courthouse out of the presence of the jury. Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

At 3:44 p.m. jurors are brought into the Courtroom. All jurors are present.

Devlin Guerard is sworn and testifies on behalf of the Defendant. DVD is marked Exhibit No. XXXX for Identification on behalf of the Defendant.

Copy Of Transcript is marked XXXX-1 for Identification on behalf of the Defendant.

At 4:36 p.m. Court admonishes the jury and jurors are excused until September 14, 2006 at 10:30 a.m. in Department One.

CONTINUED TO - 09/14/2006 at 10:30am 1, JURY TRIAL

09/14/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Karen Stewart CLK: VL  
JURY TRIAL - 24TH DAY

This cause comes on regularly this date for further jury trial pursuant to adjournment of September 13, 2006. At 10:30 a.m. Court convened out of the presence of the jury. Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

At 10:40 a.m. jurors are brought into the Courtroom. All jurors are present.

Dr. A. Andrew Shores is sworn and testifies on behalf of the Defendant.

Group Of Three (3) Photographs are marked Exhibit No. YYYY for Identification on behalf of the Defendant.

Spectro Sheet Of M. Potts (11-5-99) is offered and received into evidence and marked Exhibit No. ZZZZ on behalf of the Defendant.

Six (6) Spectros Of Dr. Shores are marked Exhibit No. 5-A for Identification on behalf of the Defendant.

At 12:04 p.m. Court admonishes the jurors and declares the regular noon recess, whereby Court is adjourned until 1:30 p.m.

At 1:33 p.m. Court reconvenes out of the presence of the jury. Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

At 1:49 p.m. jurors are brought into the Courtroom. All jurors are present.

Jeannie Frandon is sworn and testifies on behalf of the Defendant. Russell Loren Davidson heretofore sworn resumes the stand and further testifies.

At 3:05 p.m. Court declares a break.

Out of the presence of the jury, Court and counsel remain in

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09/14/2006 DE 1 Courtroom Minutes of Department 1 (continued)

session. Defendant present.

Court and counsel discuss legal issues.

Court is adjourned at 3:08 p.m.

At 3:27 p.m. Court reconvenes. Counsel J. David Nick present.

Defendant present. All jurors are present.

Russell Loren Davidson heretofore sworn resumes the stand and further testifies.

Poster Board is offered and received into evidence and marked Exhibit No. 5-B on behalf of the Defendant.

Poster Board is offered and received into evidence and marked Exhibit No. 5-C on behalf of the Defendant.

Poster Board is offered and received into evidence and marked Exhibit No. 5-D on behalf of the Defendant.

Poster Board is offered and received into evidence and marked Exhibit No. 5-E on behalf of the Defendant.

Poster Board is offered and received into evidence and marked Exhibit No. 5-F on behalf of the Defendant.

Poster Board is offered and received into evidence and marked Exhibit No. 5-G on behalf of the Defendant.

Poster Board is offered and received into evidence and marked Exhibit No. 5-H on behalf of the Defendant.

At 4:30 p.m. Court admonishes the jury and jurors are excused until September 15, 2006 at 10:15 a.m. in Department One.

Out of the presence of the jury, Court and counsel remain in session. Defendant present.

Court and counsel discuss legal issues.

Court is adjourned at 4:33 p.m.

CONTINUED TO - 09/15/2006 at 10:15am 1, JURY TRIAL

09/15/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Karen Stewart CLK: VL  
JURY TRIAL - 25TH DAY

This cause comes on regularly this date for further jury trial pursuant to adjournment of September 14, 2006. At 10:21 a.m. Court convened. Counsel J. David Nick present. Defendant present. All jurors are present.

Russell Loren Davidson heretofore sworn resumes the stand and further testifies.

Steven Lee Jackson is sworn and testifies on behalf of the People.

Martin Marovich is sworn and testifies on behalf of the Defendant.

Copy Of Yellow Pages are offered and received into evidence and marked Exhibit No. 5-I on behalf of the Defendant.

Copy Of Yellow Pages are offered and received into evidence and marked Exhibit No. 5-J on behalf of the Defendant.

At 11:57 a.m. Court admonishes the jurors and declares the regular noon recess, whereby Court is adjourned until 2:15 p.m.

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09/15/2006 DE 1 Courtroom Minutes of Department 1 (continued)

At 2:17 p.m. Court reconvenes out of the presence of the jury.  
Counsel J. David Nick present. Defendant present.  
Court and counsel discuss legal issues.  
At 2:27 p.m. jurors are brought into the Courtroom. All jurors are present.  
Martin Marovich heretofore sworn resumes the stand and further testifies.  
Copy Of Plans are marked Exhibit No. 209 for Identification on behalf of the People.  
Copy Of Plans are marked Exhibit No. 210 for Identification on behalf of the People.  
Copy Of Soil Engineer's Report is marked Exhibit No. 211 for Identification on behalf of the People.  
At 3:13 p.m. Court declares a break.  
At 3:31 p.m. Court reconvenes out of the presence of the jury.  
Counsel J. David Nick present. Defendant present.  
Court and counsel discuss legal issues.  
At 3:33 p.m. jurors are brought into the Courtroom. All jurors are present.  
Elia Rivano is sworn and testifies on behalf of the Defendant.  
Thomas Johnson sworn and testifies on behalf of the Defendant.  
At 4:28 p.m. Court admonishes the jury and jurors are excused until September 19, 2006 at 10:00 a.m. in Department One.  
Out of the presence of the jury, Court and counsel remain in session. Defendant present.  
Court and counsel discuss legal issues.  
Court is adjourned at 4:35 p.m.  
CONTINUED TO - 09/19/2006 at 10:00am 1, JURY TRIAL

09/18/2006 DE 1 Courtroom Minutes of Department 1

CLK: VL  
----- In Chambers Minutes in #1 -----  
Due to a family emergency of Judge Elliot Lee Daum, trial date of 9-19-2006 is hereby vacated and trial is continued to 9-20-2006 at 10:00 a.m. in Department One.  
CONTINUED TO - 09/20/2006 at 10:00am 1, JURY TRIAL  
Vacated - 09/19/2006 at 10:00am 1

09/19/2006 DE 1

PEOPLE'S MTN. TO EXCLUDE GEOFF ADAIR'S TAPE-RECORDED STATEMENT

MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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09/20/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Barrie Hart CLK: VL  
JURY TRIAL - 26TH DAY

This cause comes on regularly this date for further jury trial pursuant to adjournment of September 15, 2006. At 10:03 a.m. Court convened out of the presence of the jury. Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

At 10:20 a.m. jurors are brought into the Courtroom. All jurors are present.

Mitchell Albert Marovich is sworn and testifies on behalf of the Defendant.

Bradford Burke heretofore sworn resumes the stand and further testifies on behalf of the Defendant.

Ronald B. Svetlick is sworn and testifies on behalf of the Defendant.

At 11:56 a.m. Court admonishes the jurors and declares the regular noon recess, whereby Court is adjourned until 1:15 p.m.

At 1:22 p.m. Court reconvenes out of the presence of the jury. Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

At 1:25 p.m. jurors are brought into the Courtroom. All jurors are present.

Ronald B. Svetlick heretofore sworn resumes the stand and further testifies.

At 3:05 p.m. Court declares a break.

At 3:26 p.m. Court reconvenes. Counsel J. David Nick present. Defendant present. All jurors are present.

Ronald B. Svetlick heretofore sworn resumes the stand and further testifies.

Thomas Johnson heretofore sworn resumes the stand and further testifies on behalf of the Defendant.

Anderson G. Thomas is sworn and testifies on behalf of the Defendant.

At 4:30 p.m. Court admonishes the jury and jurors are excused until September 21, 2006 at 10:00 a.m. in Department One.

Out of the presence of the jury, Court and counsel remain in session. Defendant present.

Anderson G. Thomas is asked questions by the Court and answers said questions.

Court and counsel discuss legal issues.

Court is adjourned at 4:36 p.m. (counsel to be available at 9:50 p.m.)

CONTINUED TO - 09/21/2006 at 10:00am 1, JURY TRIAL



MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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09/20/2006 DE 1

DEFENDANT'S REQUEST FOR THE INTRODUCTION OF GEOFF ADAIR'S OUT OF COURT STATEMENTS

09/21/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Barrie Hart CLK: VL  
JURY TRIAL - 27TH DAY

This cause comes on regularly this date for further jury trial pursuant to adjournment of September 20, 2006. At 10:17 a.m. Court convened out of the presence of the jury. Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

At 10:39 a.m. jurors are brought into the Courtroom. All jurors are present.

Kenneth James Gaudet is sworn and testifies on behalf of the Defendant.

Belt Buckle is marked Exhibit No. 212 for Identification on behalf of the People.

Diagram is marked Exhibit No. 213 for Identification on behalf of the People.

At 2:02 p.m. Court admonishes the jurors and declares the regular noon recess, whereby Court is adjourned until 1:30 p.m. (Court and counsel are to return at 1:15 p.m.).

At 1:15 p.m. Court reconvenes out of the presence of the jury. Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

At 1:30 p.m. jurors are brought into the Courtroom. All jurors are present.

Kenneth James Gaudet heretofore sworn resumes the stand and further testifies.

Color Photograph is offered and received into evidence and marked Exhibit No. 5-K on behalf of the Defendant.

Edgard Joseph Svetlick is sworn and testifies on behalf of the Defendant.

Ezekiel Rutledge is sworn and testifies on behalf of the Defendant.

At 2:32 p.m. Court declares a break.

Out of the presence of the jury, Court and counsel remain in session. Defendant present.

Court and counsel discuss legal issues.

At 2:37 p.m. Court is adjourned.

At 2:57 p.m. Court reconvenes out of the presence of the jury. Counsel present. Defendant present.

Court and counsel discuss legal issues.

At 3:02 p.m. jurors are brought into the Courtroom. All jurors are present.

Ezekiel Rutledge heretofore sworn resumes the stand and further



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09/21/2006 DE 1 Courtroom Minutes of Department 1 (continued)

testifies.

Color Photograph is offered and received into evidence and marked Exhibit No. 5-L on behalf of the Defendant.

Color Photograph is offered and received into evidence and marked Exhibit No. 5-M on behalf of the Defendant.

Russell Loren Davidson heretofore sworn resumes the stand and further testifies.

At 4:24 p.m. Court admonishes the jury and jurors are excused until September 22, 2006 at 9:30 a.m. in Department One.

Out of the presence of the jury, Court and counsel remain in session. Defendant present.

Court and counsel discuss legal issues.

Court is adjourned at 4:40 p.m.

CONTINUED TO - 09/22/2006 at 9:30am 1, JURY TRIAL

09/21/2006 DE 1

DEFENDANT'S MTN. TO EXCLUDE IMPROPER REBUTTAL EVIDENCE

09/22/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Barrie Hart CLK: VL  
JURY TRIAL-28TH DAY

This cause comes on regularly this date for further jury trial pursuant to adjournment of September 21, 2006. At 9:31 a.m. Court convened out of the presence of the jury. Counsel J. David Nick present. Defendant present.

Court and counsel discuss legal issues.

At 9:39 a.m. jurors are brought into the Courtroom. All jurors are present.

Russell Loren Davidson heretofore sworn resumes the stand and further testifies.

Stipulation(s) Announced, Both Sides Agree, And The Court So Orders.

Ms. Gomez rest on behalf of the People.

Chris Reynolds is sworn and testifies on behalf of the Defendant.

At 10:58 a.m. Court declares a break.

Out of the presence of the jury, Court and counsel remain in session. Defendant present.

Court and counsel discuss legal issues.

At 11:00 a.m. Court is adjourned.

At 11:13 a.m. Court reconvenes. Counsel J. David Nick present. Defendant present. All jurors are present.

Counsel stipulate that the Court Reporter need not transcribe the playing of answers to questions to Mr. Reynolds.

Chris Reynolds heretofore sworn resumes the stand and further testifies.

Copy Of Transcript is offered and received into evidence and

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09/22/2006 DE 1 Courtroom Minutes of Department 1 (continued)

marked Exhibit No. 5-N on behalf of the Defendant.

At 11:53 a.m. Court admonishes the jurors and declares the regular noon recess, whereby Court is adjourned until 1:30 p.m.

At 1:32 p.m. Court reconvenes. Counsel J. David Nick present.

Defendant present. All jurors are present.

DVD is offered and received into evidence and marked Exhibit No. 5-N(1) on behalf of the Defendant.

Chris Reynolds heretofore sworn resumes the stand and further testifies.

Mr. Nick rest on behalf of the Defendant.

Stipulation Announced, Both Sides Agree And The Court So Orders.

Copy Of Partial Cross-Examination Testimony Of William McMahon is offered and received into evidence and marked Exhibit No. 5-O on behalf of the Defendant.

Copy Of Questions & Answers Of Mr. McMahon are offered and received into evidence and marked Exhibit No. 214 on behalf of the People.

Both sides now rest.

At 2:00 p.m. Court admonishes the jury and jurors are excused until September 26, 2006 at 10:15 a.m. in Department One.

Out of the presence of the jury, Court and counsel remain in session. Defendant present.

Court and counsel discuss legal issues.

At 2:02 p.m. Court declares a break.

At 2:08 p.m. Court reconvenes out of the presence of the jury.

Counsel J. David Nick present. Defendant present.

Court and counsel go over jury instructions.

Exhibit(s) H-K, M, N, W, AA, BB, FFF, JJJ-PPP, WWW-BBBB, XXXX, XXXX-1, YYYY, 5-A, 4-7, 7-A, 8, 8-A, 9, 11, 14, 15, 19-21, 24-27, 28-A, 29, 29-A, 21-A, 24-A, 30, 30-A, 30-B, 29-B, 24-B, 25-A, 32-35, 21-B, 24-C, 29-C, 25-B, 21-C, 41-45, 45-A-45-C, 46, 99-101-A, 102-102-K, 103, 103-A, 152, 153, 165-167, 180-185, 187-203, 101-B-101D, 204-206, 209-213 heretofore marked for Identification are offered and received into evidence and bear the same mark.

Exhibit(s) 85-C and 179 are hereby withdrawn and returned to Ms. Gomez.

Mr. Nick on behalf of the Defendant makes a motion pursuant to 1118.1PC on behalf of the Defendant.

Motion DENIED by the Court.

At 3:15 p.m. Court is adjourned until September 25, 2006 at 1:30 p.m. in Department One for further discussion of jury instructions. (Defendant does not need to be dressed out)

CONTINUED TO - 09/25/2006 at 1:30pm 1, JURY TRIAL

CONTINUED TO - 09/26/2006 at 10:15am 1, JURY TRIAL

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09/22/2006 DE 1

ORDER FOR DISBURSEMENT OF FURTHER FUNDS FOR DEFENSE INVESTIGATOR  
CHRIS REYNOLDS FOR AN INDIGENT DEFENDANT (FILED UNDER SEAL)  
DECL. OF J. DAVID NICK IN SUPPORT OF LEGAL SERVICES RENDERED ON  
BEHALF OF THE DEFENSE (FILED UNDER SEAL)  
ORDER FOR COMPENSATION OF DEFENSE LEGAL SERVICES (FILED UNDER  
SEAL)  
DECLARATION OF VALERIO ROMANO IN SUPPORT OF LEGAL SERVICES  
RENDERED ON BEHALF OF THE DEFENSE (FILED UNDER SEAL)  
ORDER FOR COMPENSATION OF DEFENSE LEGAL SERVICES (FILED UNDER SEAL)

09/25/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Karen Stewart CLK: VL  
JURY TRIAL - 29TH DAY

This cause comes on regularly this date for further jury trial  
pursuant to adjournment of September 22, 2006. At 1:47 p.m. Court  
convened out of the presence of the jury. Counsel J. David Nick  
present. Defendant present.

Court and counsel resume discussion of jury instructions.

Exhibit No. VVV is hereby withdrawn.

Redacted Copy Of Order For Probation is offered and received into  
evidence and marked Exhibit No. VVV-1 on behalf of the Defendant.

Copy Of Declaration In Support Of Subpoena Duces Tecum is marked  
Exhibit No. BBBB-1 for Identification on behalf of the Defendant.

Court is adjourned at 2:25 p.m. to reconvene at 10:15 a.m. on  
September 26, 2006 in Department One.

09/26/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Karen Stewart CLK: VL  
JURY TRIAL - 30TH DAY

This cause comes on regularly this date for further jury trial  
pursuant to adjournment of September 25, 2006. At 10:21 a.m.

Court convened out of the presence of the jury. Counsel J. David  
Nick present. Defendant present.

Court and counsel discuss legal issues.

At 10:30 a.m. jurors are brought into the Courtroom. All jurors  
are present.

Ms. Gomez makes her opening argument to the jury on behalf of the  
People.

At 11:10 a.m. Court declares a break.

At 11:30 a.m. Court reconvenes. Counsel J. David Nick present.  
Defendant present. All jurors are present.

Mr. Nick makes his closing argument to the jury on behalf of the  
Defendant.

At 11:58 a.m. Court admonishes the jurors and declares the regular  
noon recess, whereby Court is adjourned until 1:35 p.m.

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09/26/2006 DE 1 Courtroom Minutes of Department 1 (continued)

Out of the presence of the jury, Court and counsel remain in session. Defendant present.  
Court and counsel discuss legal issues.  
Court is adjourned at 12:00 p.m.  
At 1:34 p.m. Court reconvenes. Counsel J. David Nick present. Defendant present. All jurors are present.  
Mr. Nick resumes making his closing argument to the jury on behalf of the Defendant.  
At 2:49 p.m. Court declares a break.  
At 3:10 p.m. Court reconvenes out of the presence of the jury. Counsel J. David Nick present. Defendant present.  
Court addresses the members of the audience.  
At 3:13 p.m. jurors are brought into the Courtroom. All jurors are present.  
Mr. Nick resumes making his closing argument to the jury on behalf of the Defendant.  
At 4:28 p.m. Court admonishes the jury and jurors are excused until September 27, 2006 at 10:00 a.m. in Department One.  
CONTINUED TO - 09/27/2006 at 10:00am 1, JURY TRIAL

09/27/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Karen Stewart CLK: VL  
JURY TRIAL - 31ST DAY  
This cause comes on regularly this date for further jury trial pursuant to adjournment of September 26, 2006. At 10:07 a.m. Court convened out of the presence of the jury. Counsel J. David Nick present. Defendant present.  
Court and counsel discuss legal issues.  
At 10:15 a.m. jurors are brought into the Courtroom. All jurors are present.  
Mr. Nick resumes his closing argument to the jury on behalf of the Defendant.  
At 11:05 a.m. Court declares a break.  
Out of the presence of the jury, Court and counsel remain in session. Defendant present.  
Court and counsel discuss legal issues.  
Court is adjourned at 11:07 a.m.  
At 11:21 a.m. Court reconvenes. Counsel J. David Nick present. Defendant present. All jurors are present.  
Mr. Nick resumes his closing argument to the jury on behalf of the Defendant.  
At 12:17 p.m. Court admonishes the jurors and declares the regular noon recess, whereby Court is adjourned until 1:30 p.m.  
At 1:32 p.m. Court reconvenes. Counsel J. David Nick present. Defendant present. All jurors are present.  
Mr. Nick resumes his closing argument to the jury on behalf of the

MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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09/27/2006 DE 1 Courtroom Minutes of Department 1 (continued)

Defendant.

At 1:57 p.m. Court declares a break.

At 2:08 p.m. Court reconvenes. Counsel J. David Nick present.

Defendant present. All jurors are present.

Ms. Gomez makes her rebuttal argument to the jury on behalf of the People.

At 3:17 p.m. Court declares a break.

At 3:36 p.m. Court reconvenes. Counsel J. David Nick present.

Defendant present. All jurors are present.

Ms. Gomez resumes her rebuttal argument to the jury on behalf of the People.

Court instructs the jury.

At 4:53 p.m. Bailiff, Jess Hanshew, is sworn in to take charge of the jury. The jury retires to commence deliberations.

At 5:01 p.m. jurors are brought back into the Courtroom. All jurors are present. Juror No. 1241 is the Foreperson. Jurors request to go home today to return at 8:30 a.m. on September 28, 2006 in Department One. Counsel stipulate that upon determination all twelve (12) jurors are present, they may begin further deliberations without formally convening in open Court and without the presence of Defendant and counsel, whereby Court is adjourned at 5:03 p.m.

CONTINUED TO - 09/28/2006 at 8:30am 1, JURY TRIAL

09/27/2006 DE 1

JURY INSTRUCTIONS GIVEN BY COURT FILED

09/28/2006 DE 1 Courtroom Minutes of Department 1

HON: ELLIOT LEE DAUM DDA: Diana Gomez REP: Karen Stewart CLK: VL  
JURY TRIAL - 32ND DAY

At 9:17 a.m. Bailiff, Brandon Austin, is sworn in to take charge of the jury.

At 10:16 a.m. the bailiff determining all twelve (12) jurors are present, the jury retires to the juryroom to commence deliberations. Note From Jury is marked Court Exhibit No. 1 (at 2:58 p.m.)

At 3:45 p.m. Court reconvenes out of the presence of the jury.

Counsel J. David Nick present. Defendant present.

Court and counsel discuss note from jury.

Mr. Nick request that the testimony requested be read to the jurors in the Courtroom.

At 3:43 p.m. Court declares a break.

At 4:03 p.m. jurors are brought into the Courtroom. All jurors are present.

At 4:04 p.m. Court Reporter Karen Stewart commences reading of the testimony as requested.

At 4:58 p.m. Court Reporter Karen Stewart concludes reading of the

MCR-443363 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

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09/28/2006 DE 1 Courtroom Minutes of Department 1 (continued)

testimony as requested.

Jurors request to go home today to return at 10:00 a.m. on September 29, 2006 in Department One.

Court is adjourned at 5:00 p.m.

CONTINUED TO - 09/29/2006 at 10:00am 1, JURY TRIAL

09/29/2006 DE 1

ACQUITTED TO COUNT I PC 187(a)

ACQUITTED TO COUNT II PC 187(a)

ACQUITTED TO COUNT III PC 459

09/29/2006 DE 1 Courtroom Minutes of Department 1HON: ELLIOT LEE DAUM DDA: Christine M Cook REP: Karen Stewart CLK: VL  
JURY TRIAL - 33RD DAY

At 10:03 a.m. the bailiff determining all twelve (12) jurors are present, the jury retires to the juryroom for further deliberations.

At 4:05 p.m. jurors return to the Courtroom. Counsel J. David Nick present. Defendant present. The jury through its foreperson advises the Court that they have reached a verdict, and on direction of the Court the verdicts are handed to the Court.

Following review of the verdicts, Court, counsel, Court Reporter and Court Clerk retire to chambers at 4:08 p.m.

Court puts on the record that the Court cannot tell what the verdict is by what has been presented to the Court. Following discussion with counsel the Court is going to send the jurors back and ask them for clarification of their verdicts.

At 4:18 p.m. Court reconvenes. Counsel J. David Nick present. Defendant present. All jurors are present.

Court advises the jurors that the Court cannot tell what the verdict is and sends the jurors back into the juryroom for clarification, whereby at 4:20 p.m. jurors return to the juryroom.

At 4:22 p.m. Court reconvenes. Counsel J. David Nick present. Defendant present. All jurors are present.

The verdicts are handed to the Court. The clerk reads the verdicts which are recorded as follows:

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SONOMATHE PEOPLE OF THE STATE OF CALIFORNIA, COURT No. MCR-443363  
Plaintiff VERDICTvs. COUNT I  
ZACHARIAH JUDSON RUTLEDGE, Page One

Defendant

We, the Jury, find the Defendant, ZACHARIAH JUDSON RUTLEDGE, NOT GUILTY of violation of Section 187(a) of the Penal Code, a felony, to wit, MURDER IN THE FIRST DEGREE, in that he did unlawfully, and with malice aforethought murder HORST HANS



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09/29/2006 DE 1 Courtroom Minutes of Department 1 (continued)

GRAHLMANN, a human being, as alleged in Count I of the Information.

DATED: 9-29-06 FOREPERSON #10

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SONOMA

THE PEOPLE OF THE STATE OF CALIFORNIA, COURT No. MCR-443363  
Plaintiff VERDICT

vs. COUNT II  
ZACHARIAH JUDSON RUTLEDGE, Page One

Defendant

We, the Jury, find the Defendant, ZACHARIAH JUDSON RUTLEDGE,  
NOT GUILTY of violation of Section 187(a) of the Penal Code, a  
felony, to wit, MURDER IN THE FIRST DEGREE, in that he did  
unlawfully, and with malice of aforethought murder JASON AARON  
BLORE, a human being, as alleged in Count II of the Information.

DATED: 9-29-06 FOREPERSON #10

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SONOMA

THE PEOPLE OF THE STATE OF CALIFORNIA, COURT No. MCR-443363  
Plaintiff VERDICT

vs. COUNT III  
ZACHARIAH JUDSON RUTLEDGE, Page One

Defendant

We, the Jury, find the Defendant, ZACHARIAH JUDSON RUTLEDGE,  
NOT GUILTY of violation of Section 459 of the Penal Code, a felony,  
to wit, BURGLARY IN THE FIRST DEGREE, in that he did willfully and  
unlawfully enter an inhabited dwelling house and inhabited portion  
of a building occupied by HORST HANS GRAHLMANN, with the intent  
to commit larceny and any felony, as alleged in Count III of the  
Information.

DATED: 9-29-06 FOREPERSON#10

The jury is thanked and discharged from further service and exit  
the Courtroom.

Court orders that all exhibit(s) be withdrawn and returned to the  
parties who marked them.

Court further orders the Defendant be released from custody.

Court is adjourned at 4:26 p.m.

JUD. COUNCIL STATS ENTERED (A.E. JRY)

09/29/2006 DE 1

VERDICTS FILED

TRIAL COMPLETED - 33 Day(s)

10/02/2006 DE 1

AUTOMATED 8715 REPORT ISSUED



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11/01/2006 DE 1

DEFT'S FINAL SUPPLEMENTAL CONFIDENTIAL APPLICATION FOR COURT FUNDS  
FOR DEFT. FOOTWEAR IMPRESSION EXPERT WM. J. BODZIAK FOR INDIGENT  
ORDER FOR DISBURSEMENT OF FUNDS FOR DEFENSE FOOTWEAR IMPRESSION  
EXPERT, WM. J. BODZIAK OF BODZIAK FORENSICS FOR INDIGENT DEFT.  
CONFIDENTIAL DECL. OF J. DAVID NICK IN SUPPORT OF THE DISBURSEMENT  
OF FUNDS FOR DEFENSE INVESTIGATOR KEN GAUDET  
ORDER FOR THE DISBURSEMENT OF FUNDS FOR DEFENSE INVESTIGATOR KEN  
GAUDET  
DEFT'S SUPPLEMENTAL CONFIDENTIAL APPLICATION FOR COURT FUNDS FOR  
DEFENSE FORENSIC CHEMICAL ENGINEER, SPECIALIZING PAINTS  
ORDER FOR THE DISBURSEMENT OF FUNDS FOR DEFENSE FORENSIC CHEMICAL  
ENGINEER, A. ANDREW SHORES FOR AN INDIGENT DEFENDANT

11/02/2006 DE 1

\*\*\*\*VOL 1-6 IN BOX C00950-VOL 7-13 IN BOX C00951\*\*\*\*

12/22/2006 DE 1

ORDER FOR THE DISBURSEMENT OF FUNDS FOR DEFENSE INVESTIGATOR KEN  
GAUDET FOR AN INDIGENT DEFENDANT  
CONFIDENTIAL SUPPLEMENTAL APPLICATION FOR COURT FUNDS FOR DEFENSE  
INVESTIGATOR DEN GAUDET FOR AN INDIGENT DEFENDANT

\*\*\*\*\* End of Docket \*\*\*\*\*